Basin headwater project, Mississippi, in order to authorize reimbursement for the costs of reconstructing a bridge originally constructed as part of such project; to the Committee on Public Works.

By Mr. ST. ONGE:

H.R. 17261. A bill to enable baby chick, started pullet, laying hen, and table egg producers to consistently provide an adequate supply of these commodities to meet the needs of consumers, to stabilize, maintain, and develop orderly marketing conditions at prices reasonable to the consumers and producers, and to promote and expand the use and consumption of such commodities and products thereof; to the Committee on Agriculture.

By Mr. SAYLOR:

H.R. 17262. A bill to amend title 38, United States Code, to provide increases in rates of compensation for disabled veterans; to the Committee on Veterans' Affairs.

By Mr. BROYHILL of Virginia:

H.R. 17263. A bill to amend the Civil Service Retirement Act to increase from 2 to 2½ percent the retirement multiplication factor used in computing annuities of certain employees engaged in hazardous duties; to the Committee on Post Office and Civil Service.

By Mr. COLLIER (for himself, Mr. HANNA, Mr. FRIEDEL, Mr. CONYERS, Mr. KARTH, Mr. ASHLEY, Mr. BLATNIK, and Mr. ST GERMAIN):

H.R. 17264. A bill to establish a Commission on Hunger; to the Committee on Education and Labor.

By Mr. FALLON:

H.R. 17265. A bill to provide for orderly trade in iron and steel mill products; to the Committee on Ways and Means.

By Mr. FULTON of Pennsylvania:

H.R. 17266. A bill to amend the Immigration and Nationality Act to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

By Mr. GROSS (for himself, Mr. HENDERSON, and Mr. POOL):

H.R. 17267. A bill to amend title 5, United States Code, to remove persons from Federal employment who engage in unlawful acts connected with riots or civil disorders, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PATMAN (for himself and Mr. GONZALEZ):

H.R. 17268. A bill to amend the Defense Production Act of 1950, and for other purposes; to the Committee on Banking and Currency.

By Mr. PODELL:

H.R. 17269. A bill to establish a commission to study the use of chemicals in peace and war; to the Committee on Interstate and Foreign Commerce.

By Mr. ST. ONGE:

H.R. 17270. A bill to amend the Merchant Marine Act, 1936, and other statutes to provide a new maritime program; to the Committee on Merchant Marine and Fisheries.

By Mr. SCHEUER:

H.R. 17271. A bill to amend the Immigration and Nationality Act to make additional immigrant visas available for immigrants from certain foreign countries, and for other purposes; to the Committee on the Judiciary.

By Mr. SHIPLEY:

H.R. 17272. A bill to provide for orderly trade in iron ore, iron and steel mill products; to the Committee on Ways and Means.

By Mr. TUNNEY:

H.R. 17273. A bill to amend the act of September 21, 1959 (Public Law 86–339) relating to the Reservation of the Agua Caliente Band of Mission Indians; to the Committee on Interior and Insular Affairs.

By Mr. WATSON:

H.R. 17274. A bill to amend the Davis-Bacon Act to provide flexibility in the imposition of debarment sanctions; to the Committee on Education and Labor.

By Mr. DANIELS (for himself, Mr. PERKINS, Mrs. GREEN of Oregon, Mr. THOMPSON of New Jersey, Mr. HOLLAND, Mr. DENT, Mr. PUCINSKI, Mr. BRADEMAS, Mr. CAREY, Mr. HAWKINS, Mr. GIBBONS, Mr. WILLIAM D. FORD, Mr. HATHAWAY, Mrs. MINK, Mr. SCHEUER, Mr. MEEDS, Mr. BURTON of California, Mr. AYRES, Mr. QUIE, Mr. REID of New York, Mr. BELL, Mr. ERLENBORN, Mr. SCHERLE, Mr. STEIGER of Wisconsin, and Mr. ASHBROOK):

H.J. Res. 1271. Joint resolution to provide that it be the sense of the Congress that a White House Conference on Aging be called by the President of the United States in 1971, to be planned and conducted by the Secretary of Health, Education, and Welfare to assist the States in conducting similar conferences on aging prior to the White House Conference on Aging, and for related purposes; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROTZMAN:

H.R. 17275. A bill for the relief of Yasar Melekoglu, his wife, Suna Melekoglu, and their children, Tayfun Melekoglu and Tamer Melekoglu; to the Committee on the Judiciary.

By Mr. FINO:

H.R. 17276. A bill for the relief of Carmine D'Apruzzo; to the Committee on the Judiciary.

H.R. 17277. A bill for the relief of Benedetto Randazzo; to the Committee on the Judiciary.

By Mr. HATHAWAY:

H.R. 17278. A bill for the relief of Maj. Louis A. Deering, U.S. Army; to the Committee on the Judiciary.

By Mr. KUPFERMAN:

H.R. 17279. A bill for the relief of Jenny M. Jo; to the Committee on the Judiciary.

By Mr. MURPHY of Illinois:

H.R. 17280. A bill for the relief of Kwan Bih Wan and children, Tuan Gok Der, Hing Thloy Der, Wing Gok Der, and Kuen Thloy Der; to the Committee on the Judiciary.

By Mr. NEDZI:

H.R. 17281. A bill for the relief of Girolomo Martino G. Grillo; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 17282. A bill for the relief of Vincenzo Di Salvo; to the Committee on the Judiciary.

H.R. 17283. A bill for the relief of Rosario Lo Cicero; to the Committee on the Judiciary.

H.R. 17284. A bill for the relief of Americo Placidi; to the Committee on the Judiciary.

H.R. 17285. A bill for the relief of Domenico Zizza; to the Committee on the Judiciary.

By Mr. SCHEUER:

H.R. 17286. A bill for the relief of Yehoshua Sulimanoff; to the Committee on the Judiciary.

By Mr. TUNNEY:

H.R. 17287. A bill for the relief of John Sebastian Bell; to the Committee on the Judiciary.

By Mr. WYMAN:

H.R. 17288. A bill for the relief of Cosimo Damiano Ranauru; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

314. By the SPEAKER: Petition of Mrs. Rita Warren, Brockton, Mass., relative to assistance for mentally retarded children; to the Committee on Interstate and Foreign Commerce.

315. Also, petition of E. H. Brockelmann, Altadena, Calif., and others, relative to pensions for World War I veterans; to the Committee on Veterans' Affairs.

SENATE—*Tuesday, May 14, 1968*

The Senate met at 11 a.m., and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

O Thou who dost speak to us in the quietness, forgive us that we seem to listen too often to those about us who shout the loudest.

As in reverence we hallow Thy name, so may we hallow our own, keeping our honor bright, our hearts pure, our ideals untarnished, and our devotion to the Nation's weal high and true.

We are grateful for this sweet time of prayer, that calls us from a world of care, and bids us at our Father's throne make all our wants and wishes known.

At this altar of devotion we would be sure of Thy presence ere pressing duty leads us back to a noisy, crowded way. "Direct, control, suggest, this day,
All we design or hope or say;
That all our powers, with all their might,
In Thy sole glory may unite."

In the dear Redeemer's name. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 13, 1968, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT TO 11 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate

completes its business this afternoon, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(This order was subsequently changed to provide for the Senate to recess until 10 a.m. tomorrow.)

SUBCOMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Constitutional Amendments of the Committee on the Judiciary and the Permanent Subcommittee on Investigations of the Committee on Government Operations be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Flood Control—rivers and harbors—of the Committee on Public Works be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR SCOTT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the distinguished Senator from Pennsylvania [Mr. SCOTT] be recognized at as close to 2 o'clock as possible, for not to exceed one-half hour.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR THURMOND

Mr. MANSFIELD. Mr. President, I have an unusual request for "7 minutes—no more, no less—at exactly 2:30 p.m." That is an impossible request, but I ask unanimous consent that when the distinguished Senator from Pennsylvania [Mr. SCOTT] completes his remarks, the distinguished Senator from South Carolina [Mr. THURMOND] be recognized on that basis.

The PRESIDENT pro tempore. Without objection, it is so ordered.

EXECUTIVE COMMUNICATIONS, ETC.

The PRESIDING OFFICER (Mr. TYDINGS in the chair) laid before the Senate the following letters, which were referred as indicated:

REPORT OF U.S. NAVAL ACADEMY

A letter from the Dean of Admissions, U.S. Naval Academy, Annapolis, Md., transmitting, pursuant to law, a report of that Academy, dated May 1968 (with accompanying papers); to the Committee on Armed Services.

AMENDMENT OF MERCHANT MARINE ACT, 1936

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the last sentence of section 201(b) of the Merchant Marine Act, 1936, and for other purposes (with accompanying papers); to the Committee on Commerce.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on opportunity to reduce costs by accelerating the disposal of unneeded storage structures, Commodity Credit Corporation, Department of Agriculture, dated May 13, 1968 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on need for improvement in management of mission support aircraft, Department of the Army, dated May 10, 1968 (with an accompanying report); to the Committee on Government Operations.

A letter from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report on compilation of General Accounting Office findings and recommendations for improving government operations, fiscal year 1967, dated May 10, 1968 (with an accompanying report); to the Committee on Government Operations.

REPORT OF ATTORNEY GENERAL

A letter from the Attorney General, transmitting, pursuant to law, a report of the activities of the Department of Justice, for the fiscal year ended June 30, 1967 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF CIVIL AIR PATROL

A letter from the National Commander, Civil Air Patrol, Maxwell Air Force Base, Ala., transmitting, pursuant to law, a report of that organization, for the year 1967 (with an accompanying report); to the Committee on the Judiciary.

REPORT OF U.S. COMMISSION ON CIVIL RIGHTS

A letter from the Chairman, U.S. Commission on Civil Rights, Washington, D.C., transmitting, pursuant to law, a report of that Commission relating to participation by Negroes in the electoral and political processes in 10 Southern States since passage of the Voting Rights Act of 1965 (with an accompanying report); to the Committee on the Judiciary.

DISPOSITION OF EXECUTIVE PAPERS

A letter from the Archivist of the United States, transmitting, pursuant to law, a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Committee on the Disposition of Papers in the Executive Departments.

The PRESIDING OFFICER appointed Mr. MONRONEY and Mr. CARLSON members of the committee on the part of the Senate.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the PRESIDING OFFICER:

A resolution of the Senate of the State of Maryland; to the Committee on Armed Services:

"SENATE RESOLUTION 15

"Senate resolution protesting the act of piracy committed by North Korea against a naval vessel of the United States and supporting the actions of the United States Government in this serious matter

"On Monday, January 22, 1968, the Communist Government of North Korea committed an act of piracy against the United States with the armed seizure of the USS 'Pueblo' in international waters near Korea.

"The facts of this outrageous incident, as reported by Ambassador Arthur J. Goldberg to a meeting of the United Nations Security Council, disclose that a naval intelligence ship of the U.S. Navy, the 'Pueblo', was accosted by a vessel of North Korea while in international waters off the shores of Korea, and after being surrounded by several North Korean vessels was boarded and forcibly taken to a North Korean port.

"The evidence presented by Ambassador Goldberg clearly shows that the 'Pueblo' was in international waters, more than twelve miles from the coastline of Korea and that the subsequent boarding and seizure of the 'Pueblo' was a dangerous and precipitous act devoid of justification or excuse.

"Such an action on the part of North Korea is not new. Recently a band of assassins from North Korea attempted to take the life of President Park Chung Hee of South Korea and failed. Other acts of piracy involving the seizure of South Korean fishing vessels and the kidnapping of South Korean Nationals have been successful.

"Such acts are clearly an indication of the desperate condition in which North Korea finds itself today. Since the Korean Armistice, South Korea with the help of the free world has prospered economically; North Korea with its communist help and resources has not prospered. The tyrannical regime in control of North Korea must learn that they cannot substitute for their failures, piratical attacks upon the free nations of the World.

"To date the United States Government has insisted on resolution of this attack by diplomatic means. If no results are forthcoming, then this government must consider other and more forceful means.

"Throughout the history of the United States, other governments have committed acts of piracy against the United States but have suffered retribution, as at Tripoli and prior to the War of 1812.

"America is a free nation because its government has protected the liberty and the property of its people. In this latest act of privacy by North Korea, the very ideals upon which our nation has been founded, are now jeopardized. The USS 'Pueblo', and its crew must be released immediately.

"Now as we face this clear and present danger to our security, the members of the Senate of Maryland have followed with increasing concern the rapid unfolding of the events surrounding the seizure of the 'Pueblo', and in the case of the Prince Georges County Senators, with special interest because of the presence on the 'Pueblo' of a resident of the county, Marine Sergeant Robert J. Chicca; now, therefore, be it

"*Resolved*, That the members of the Senate of Maryland express their shock with the act of piracy committed by North Korea against a naval vessel of the United States and we extend our unqualified support to the actions of President Lyndon B. Johnson and the United States government in resolving this crisis in a manner which will uphold American honor; ideals and prestige in the world. and be it further

"*Resolved*, That copies of this Resolution be sent to President Lyndon B. Johnson, Vice-President Hubert H. Humphrey, to Ambassador Arthur J. Goldberg, to the members of the President's Cabinet, and to Senators Daniel B. Brewster and Joseph D. Tydings and Representatives George H. Fallon, Samuel N. Friedel, Edward A. Garmatz, Gilbert Gude, Clarence D. Long, Hervey G. Machen, Charles McC. Mathias, Jr., and Rogers C. B. Morton.

"By the Senate, January 31, 1968.

"Read and adopted.

"By order, J. Waters Parrish, Secretary.

"WILLIAM S. JAMES,
"President of the Senate.
"J. WATERS PARRISH,
"Secretary of the Senate."

A concurrent resolution of the Legislature of the State of Hawaii; to the Committee on Commerce:

"SENATE CONCURRENT RESOLUTION 57

"Whereas, the Civil Aeronautics Board of the United States is now considering the Transpacific Route Investigation, and the final award thereof of operating authority

to existing and additional United States carriers to meet the present and future needs of air transportation in the Pacific area will have far-reaching impact upon the State of Hawaii as the hub of transportation and communications among all nations bordering the Pacific Ocean; and

"Whereas, there is rapidly developing a community of interest in trade and commerce among the countries of Asia, Latin America and Hawaii; and

"Whereas, a direct, nonstop air service between Mexico and the State of Hawaii would cause further acceleration and expansion of this community of interest among the countries of the Pacific Basin with Hawaii continuing to be the center of such anticipated growth and development of trade and commerce in the Pacific; and

"Whereas, such nonstop service would also provide the people of Hawaii, traveling to central and eastern parts of the United States a direct alternate route eastward from Hawaii or westward to Hawaii through Mexico City, giving the people of Hawaii a real opportunity for cultural and commercial interchange with their Latin American Neighbors in the Pacific, and fulfilling the destiny of Hawaii as the home of an internationally oriented society in the Pacific; and

"Whereas, such nonstop service would also provide the people of the central and eastern parts of the United States traveling to Hawaii a direct alternate route westward to Hawaii or eastward from Hawaii through Mexico City; and

"Whereas, such nonstop service between Hawaii and Mexico City on through to the central and eastern parts of the United States is, among other matters, being considered in the Transpacific Route Investigation, now, therefore,

"Be it resolved by the Senate of the Fourth Legislature of the State of Hawaii, Budget Session of 1968, the House of Representatives concurring that it is the sense of the Fourth Legislature that such direct nonstop through service will be beneficial to the people of the State of Hawaii in expanding their community of interest in trade, commerce and tourism with their Latin American neighbors of the Pacific Basin, and that the Civil Aeronautics Board be respectfully urged to give serious consideration to authorizing such service; and

"Be it further resolved that duly certified copies of this Concurrent Resolution be transmitted to Governor John A. Burns, Senator Daniel K. Inouye, Senator Hiram L. Fong, Representative Spark M. Matsunaga, Representative Patsy T. Mink, the President of the Senate, the Speaker of the House of Representatives, and, in the appropriate manner, to the Civil Aeronautics Board.

"Attest:

"JOHN J. ———,
"President of the Senate.
"SEICHI HIRAI,
"Clerk of the Senate.

"Attest:

"TADAO BEPPU,
"Speaker, House of Representatives.
"SHIGETO KANEMOTO,
"Clerk, House of Representatives."

A concurrent resolution of the Legislature of the Territory of American Samoa; to the Committee on Commerce:

"SENATE CONCURRENT RESOLUTION 39

"Conveying to the 90th Congress of the United States and the Governor of the Territory of American Samoa, on behalf of the people of American Samoa, that the Members of the Senate and House of Representatives of the Territory of American Samoa solicit the support and cooperation of each Member of Congress to vote against H.R. 13311 'the Pelly bill'

"Whereas, American Samoa is a Territory of the United States obtained through the 'Instrument of Cession' in April, 1900 A.D. which was accepted, ratified, and confirmed; and

"Whereas, the Government of the United States upon ratification of the 'Instrument of Cession' assumed the obligation of promoting the welfare of the people of said islands, which welfare can be better promoted by the continued employment of the Citizens of American Samoa; and

"Whereas, American Samoa has two canneries that employ hundreds of Nationals who are Income Tax payers to the Government of the United States; and

"Whereas, Star Kist, Inc. and Van Camp Sea Food Co., canneries doing business in American Samoa depend entirely upon the Korean Fleet, the Chinese and Japanese Fleets, Orientals who have perfected deep sea fishing operation, for their supply of fish, without which they could no longer keep their doors open causing widespread unemployment, and resulting in conditions similar to those now existing in the Appalachian region where, Senator Robert Kennedy in a recent inspection tour stated, 'what these people need is jobs, not government help'; and

"Whereas, American Samoa, its citizens and families depend on the income from employment in these canneries, the only industries in American Samoa; and

"Whereas, American Samoa through its Income Tax and industry is on the road towards self-support:

"Now, therefore, be it resolved by the Senate of the Tenth Legislature the House of Representatives concurring, that the Legislature of American Samoa go on record as Citizens of the Territory of American Samoa, a Territory of the United States that has voluntarily embraced the Income Tax laws of the United States, as soliciting the support and cooperation of each member of Congress in voting against H.R. 13311; and

"Be it further resolved that the Governor be, and he is hereby requested and authorized to distribute certified copies of this Concurrent Resolution to the President of the Senate and Speaker of the House of Representatives of the U.S. Congress; the Secretary of the Interior; Chairman of Committees on Interior and Insular Affairs of both Houses of the U.S. Congress; the Chairman of the Committee on Merchant Marine and Fisheries of the U.S. House of Representatives, the Director of Office of Territories, and Senator Robert Kennedy.

"A. P. LAUVAO-LOLO,
"President of the Senate.
"MUAGUTUTI'A F. TUIA,
"Speaker of the House of Representatives.

"Attest:

"Mrs. SALILO K. LEVI,
"Secretary of the Senate.

"Attest:

"PALAUNI M. TUIASOSOPO,
"Chief Clerk House of Representative."

A resolution adopted by the board of directors, Farm Credit Banks of Columbia, Columbia, S.C., praying for the enactment of legislation to allow the Mainland Cane Sugar Area to fill all or a portion of the unused Puerto Rican deficit; to the Committee on Agriculture and Forestry.

A resolution adopted by the Itoman Town Council, Okinawa, praying for the enactment of legislation for the immediate and complete return of Okinawa to the fatherland; to the Committee on Foreign Relations.

A resolution adopted by the Municipal Council, Kochinda-Son, Okinawa, praying for the enactment of legislation relating to the return of Okinawa to Japan; to the Committee on Foreign Relations.

A resolution adopted by the municipal council of the city of Clifton, N.J., remonstrating against the passage of a bill to liberalize truck size and weight limits on interstate highways; ordered to lie on the table.

REPORTS OF A COMMITTEE

The following reports of a committee were submitted:

By Mr. BARTLETT, from the Committee on Commerce, without amendment:

H.R. 15224. An act to authorize appropriations for procurement of vessels and aircraft and construction of shore and offshore establishments for the Coast Guard (Rept. No. 1120).

By Mr. BARTLETT, from the Committee on Commerce, with an amendment:

H.R. 15189. An act to authorize appropriations for certain maritime programs of the Department of Commerce (Rept. No. 1121).

By Mr. BARTLETT, from the Committee on Commerce, with amendments:

S. 3017. A bill to change the provision with respect to the maximum rate of interest permitted on loans and mortgages insured under title XI of the Merchant Marine Act, 1936 (Rept. No. 1119).

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. HARTKE:

S. 3485. A bill for the relief of Amaden and Cecilia Simoes; to the Committee on the Judiciary.

By Mr. PEARSON:

S. 3486. A bill for the relief of Sugwon Kang; to the Committee on the Judiciary.

By Mr. EASTLAND (by request):

S. 3487. A bill to correct deficiencies in the law relating to the theft and passing of postal money orders; and

S. 3488. A bill to provide for the admission to the United States of certain inhabitants of the Bonin Islands; to the Committee on the Judiciary.

By Mr. TALMADGE:

S. 3489. A bill for the relief of Augusto G. Usategui, M.D.; to the Committee on the Judiciary.

By Mr. DODD:

S. 3490. A bill for the relief of Peter Boros; to the Committee on the Judiciary.

By Mr. TYDINGS:

S. 3491. A bill for the relief of Azucena de Borja; to the Committee on the Judiciary.

By Mr. BAYH:

S. 3492. A bill for the relief of Sau Lin Chu (also known as Sow Sam Chu); to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF BILLS

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Wisconsin [Mr. NELSON], I ask unanimous consent that, at its next printing, the name of the distinguished Senator from Michigan [Mr. HART] be added to the bill (S. 3126) to provide for the regulation of present and future surface and strip mining, for the conservation, acquisition, and reclamation of surface and strip mined areas, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLOTT. Mr. President, I ask unanimous consent that, at its next printing, the name of the Senator from Kansas [Mr. PEARSON] be added as a cosponsor of the bill (S. 263) to increase to 5 years the maximum term for which broadcasting station licenses may be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE RESOLUTION 288—RESOLUTION TO AUTHORIZE THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO CONDUCT AN OIL INDUSTRY STUDY

Mr. TOWER. Mr. President, I wish to take this opportunity to submit a measure which would authorize the Committee on Interior and Insular Affairs to make a comprehensive study of the state of the domestic oil industry. Particularly included would be: First, the present and probable future state of the domestic oil industry in the United States; second, the scope of harm and/or difficulties encountered or which might be encountered by the domestic oil industry in the United States by reason of existing or future oil import programs; and third, the effect of the expanding petrochemical industry on the domestic oil industry in the United States by reason of the fact that such industry is heavily dependent upon oil imports.

Mr. President, in 1967, the American petroleum industry experienced another trying year. The total number of wells drilled in the United States was about 33,000, down 12 percent from the previous year. Even more telling was the fact that proven crude oil reserves in the United States for the 1962–66 period were down 306 million barrels from 1957–61. The domestic user who is so dependent upon an adequate supply also has a vital stake.

The petrochemical industry is playing an ever-increasing role in American business. This industry is greatly dependent upon oil imports for their needs and will need even greater amounts of oil in the future, most probably from foreign sources. The domestic industry must know of the impact of petrochemicals upon its own future. In order to plan and to make provisions, these problems must be considered now.

Mr. President, by considering this resolution, the Senate will give notice that it is concerned about the state of the petroleum industry in the United States. It is certainly my hope that affirmative action will be taken so that we here in the Congress can formulate a program which will coincide with our stated national objectives of remaining the world's foremost power and a strong petroleum producer. I urge the Senate to expeditiously consider this matter. A positive program is needed to prevent a bad situation from becoming progressively worse.

The PRESIDING OFFICER. The resolution will be received and appropriately referred; and, under the rule, the resolution will be printed in the RECORD.

The resolution (S. Res. 288) was referred to the Committee on Interior and Insular Affairs, as follows:

S. RES. 288

Resolved, That the Committee on Interior and Insular Affairs, or any duly authorized subcommittee thereof, is authorized under sections 134 (a) and 136 of the Legislative Reorganization Act of 1946, as amended, and in accordance with its jurisdiction specified by rule XXV of the Standing Rules of the Senate, to make a complete and comprehensive study and investigation of the plight of the domestic oil industry in the United States. Such study and investigation shall include but shall not be limited to:

(1) The present and probable future state of the domestic oil industry in the United States.

(2) The scope of harm or difficulties encountered or which might be encountered by the domestic oil industry in the United States by reason of existing or future oil import programs.

(3) The effect of the expanding petrochemical industry on the domestic oil industry in the United States by reason of the fact that such industry is heavily dependent upon oil imports.

SEC. 2. For purposes of this resolution the Committee, through January 31, 1969, is authorized (1) to make such expenditures as it deems advisable; (2) to employ upon a temporary basis, technical, clerical, and other assistants and consultants: *Provided*, That the minority is authorized to select one person for appointment, and the person so selected shall be appointed and his compensation shall be so fixed that his gross rate shall not be less by more than $2,200 than the highest gross rate paid to any other employee; and (3) with the prior consent of the heads of the departments or agencies concerned, and the Committee on Rules and Administration, to utilize the reimbursable services, information, facilities, and personnel of any of the departments or agencies of the Government.

SEC. 3. The committee shall report its findings, together with its recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than March 1, 1969.

SEC. 4. Expenses of the committee under this resolution, shall be paid from the contingent fund for the Senate upon vouchers approved by the chairman of the committee.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967—AMENDMENT

AMENDMENT NO. 780

Mr. CURTIS submitted an amendment, intended to be proposed by him, to the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 781

Mr. LONG of Missouri submitted an amendment, intended to be proposed by him, to Senate bill 917, supra, which was ordered to lie on the table and to be printed.

AMENDMENT NO. 782

Mr. DIRKSEN proposed an amendment to the Senate bill 917, supra, which was ordered to be printed.

(See reference to the above amendment when proposed by Mr. DIRKSEN, which appears under a separate heading.)

AMENDMENT NO. 786

Mr. KENNEDY of Massachusetts submitted amendments, intended to be proposed by him, to Senate bill 917, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 787

Mr. GRIFFIN submitted amendments, intended to be proposed by him, to Senate bill 917, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 788

Mr. TYDINGS submitted amendments, intended to be proposed by him, to Senate bill 917, supra, which were ordered to lie on the table and to be printed.

AMENDMENT NO. 789

PROPOSED AMENDMENT TO TITLE IV OF S. 917, RELATING TO FEDERAL FIREARMS CONTROLS

Mr. DODD. Mr. President, this amendment would restore the provisions of S. 1, amendment No. 90, restricting the interstate shipment of long guns by licensees—that is, interstate mail-order type shipments by licensees to individuals in other States would be prohibited—but would provide that such provision would not apply with respect to a State which had enacted a law making such provisions inapplicable to shipment of such firearms into the State.

Also Federal licensees would be prohibited from selling rifles or shotguns to persons under 18 years of age.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

AMENDMENT NO. 790

PROPOSED AMENDMENT OF TITLE IV OF S. 917 RELATING TO FEDERAL FIREARMS CONTROLS

Mr. DODD. Mr. President, this amendment would restore the provisions of S. 1, amendment No. 90, restricting the interstate shipment of long guns by licensees—that is, interstate mail-order type shipment by licensees to individuals in other States would be prohibited—but would provide that such provision would not apply with respect to any State until that State had enacted a law making such provisions applicable to shipment of such firearms into such State.

Also Federal licensees would be prohibited from selling rifles or shotguns to persons under 18 years of age.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

AMENDMENT OF CERTAIN EXPIRING PROVISIONS UNDER THE MANPOWER DEVELOPMENT AND TRAINING ACT OF 1962—AMENDMENTS

AMENDMENTS NOS. 783 THROUGH 785

Mr. PROUTY submitted three amendments, intended to be proposed by him, to the bill (S. 2938) to extend certain expiring provisions under the Manpower Development and Training Act of 1962, as amended, which were referred to the Committee on Labor and Public Welfare and ordered to be printed.

NOTICE OF HEARING ON INTERNATIONAL DEVELOPMENT ASSOCIATION

Mr. SPARKMAN. Mr. President, as acting chairman of the Committee on Foreign Relations, I wish to announce that the committee has scheduled a public hearing on S. 3378, a bill to authorize an appropriation of $480,000,000 for the U.S. contribution to the International Development Association. The hearing will begin at 10 a.m. on Tuesday, May 21. It will take place in room 4221 of the New Senate Office Building.

Persons wishing to testify on this bill should communicate with Mr. Arthur M. Kuhl, the chief clerk of the Committee on Foreign Relations.

NATIONAL SMALL BUSINESS WEEK

Mr. SMATHERS. Mr. President, by proclamation, President Johnson has designated the week of May 12 as Small Business Week. It is appropriate indeed that we Americans give official recognition to the vital contribution which small business has made to the phenomenal growth of our economy. Since the founding days of the Republic, small business has provided a constructive outlet for the entrepreneurial talents which are native to the small businessmen and small businesswomen of this Nation.

Time and again, the Congress has expressed its confidence that smaller business firms, given a fair opportunity, can more than hold their own in the development of new products, in the production of goods and services, and through wholesaling and retailing, in making the abundance of such goods and services available to consumers in metropolitan markets and in remote hamlets.

Perhaps the most enduring monument to the faith of Congress in small business enterprises is the Small Business Act of 1953, which created the Small Business Administration. As frequently amended in the ensuing 15 years, this act is considered by many to be the Magna Carta of our free enterprise system.

As chairman of the Senate Select Committee on Small Business, I feel it appropriate, Mr. President, to call attention at this time to some of the accomplishments of the Small Business Administration—the only Federal agency whose sole mission is to promote the welfare of our almost 5,000,000 small business concerns.

Through its financial assistance programs, the SBA has made $5.3 billion available to more than 117,000 small business borrowers. It is interesting to take note that about 42 percent, or $2.2 billion, was advanced by private lending institutions, ample indication of the close partnership in this area between the Federal Government and the private sector.

Many of the Nation's smaller communities benefited greatly from SBA's local development company program where, again in cooperation with citizen groups, a gross investment of more than $300 million in some 1,500 community projects created an estimated 64,000 new jobs.

Finally, by means of the Small Business Investment Company program, 1,381 small firms received from SBIC's financial assistance totaling almost $1.2 billion, a direct result of which was an increase in these firms employment of 11,800 jobs.

The agency is also to be commended for pumping about $40 million of credit into loans to small business firms located in urban and rural poverty areas. Studies have shown that the 3,700 economic opportunity loans help to create 2.5 jobs per loan for a total employment gain since the start of the program of 15,000 job opportunities.

In addition to these productive lending activities, SBA has been instrumental through its procurement assistance programs in helping innumerable small firms to find a place in the vast Federal supply system. For an example, Federal prime contract awards to small firms increased from $4.3 billion in 1960 to $9.9 billion in 1967. The agency's subcontracting activities also produced tangible results—the total of subcontracts flowing to small suppliers reaching $6.6 billion in fiscal 1967.

By no means the least effective of the agency's programs is that which is designed to make small businessmen better managers. While perhaps more difficult to measure, SBA's management assistance program has been of inestimable help to thousands of owners and managers of small companies who were being penalized by their lack of expertise in modern management skills and techniques.

All in all, the Congress can take pride in the achievements of the agency that it established to aid our small businessmen. As part of the celebration of Small Business Week, SBA's Administrator, Robert C. Moot, issued a state of the agency message in which he proclaimed an objective for SBA with which it would be hard to disagree. Mr. Moot said:

> Despite a creditable record, we must reach still more of the population that has been denied opportunity. We must help more people attain a measure of economic security and a place of dignity in our affluent society.

POWER-GAS CORP. LTD., OF GREAT BRITAIN PUTS ITS TECHNOLOGY AT SERVICE OF FREE WORLD

Mr. McGEE. Mr. President, we hear a great deal these days about the "brain drain," meaning the immigration to this country of skilled scientists and engineers from various parts of the Old World. While our superior pay scales and living standards, to say nothing of our appreciation for the skills of these people, no doubt provide a strong attraction for many, it is encouraging to note that some of our friends and allies in Britain and on the Continent are not taking it lying down. In fact, they are standing up to the importance of technology and they are developing, and retaining, and using important talents.

Indeed, we hear from time to time of something that might be called the reverse of the "brain drain," which is to say instances in which the scientific assets of our friends abroad are employed to our domestic advantage. One such instance has been brought to my attention by a constituent.

It seems that in the manufacture of fertilizers a great deal of sulfur is consumed. In many parts of the world sulfur is in short supply, and the situation is worsened by the acute necessity to increase food production. But it seems that in England and Europe they have perfected a method of using nitric acid instead of sulfuric acid. A leader in this development has been the Power-Gas Corp., Ltd., a part of the Davy-Ashmore Group, a publicly owned British firm.

I am told by Mr. Raymond J. Kenard, Jr., president of the Power-Gas subsidiary in our country that this technology has already been made available to several of our large oil and chemical companies. Moreover, Mr. Kenard is fully cooperating with our authorities in the encouragement of agricultural expansion in many of the developing countries. He says he is guided by the general lines laid down by our Government as to the countries that can best benefit from this assistance.

Though we have some concern that this sort of technology might be offered to some countries of adversary or negative slant in their dealings with us, and I could illustrate that by mentioning Red China and Cuba, or even North Vietnam. I am assured that Power-Gas has declined to show an interest in prospective business in those areas.

I wish we could say as much for all similar technical and engineering firms in Britain and on the continent, but, unfortunately, this cannot be said. Some appear blind and deaf to the best interests of the United States, a Nation which most surely deserves better reward for the sacrifices made in our united efforts, and for the help we extended in time of need.

So, I think it all the more worthy to commend to our Government, and to our U.S. private enterprise companies, Mr. Kenard's firm for the attitude taken, and for the useful way in which it is putting its technology at the service of the free world.

ADDRESS BY RABBI DAVID BERENT AT NATURALIZATION CEREMONIES, FEDERAL COURT, PORTLAND, MAINE

Mrs. SMITH. Mr. President, one of Maine's most distinguished and respected citizens, Rabbi David Berent, of Beth Jacob Synagogue, Lewiston, Maine, and chaplain at the Veterans' Administration Center, Togus, recently delivered a stirring address at the naturalization ceremonies held May 1, 1968, at the Federal Court in Portland, Maine.

It is the kind of talk that is so desperately needed in these troubled times. It is an expression of responsibility from a religious leader of many, many years in Maine as contrasted with that made by any recent arrival in Maine determined to make Maine over. It is an expression of a quiet man as contrasted to bombastic shouts of publicity seekers.

I invite serious consideration of the address and ask unanimous consent that it be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY RABBI DAVID BERENT OF BETH JACOB SYNAGOGUE, LEWISTON, AND CHAPLAIN AT THE VETERANS' ADMINISTRATION CENTER, TOGUS, AT NATURALIZATION CEREMONIES, FEDERAL COURT, PORTLAND, MAINE, MAY 1, 1968

It is a proud moment when one can say "I am an American". I congratulate you who today have taken the oath of citizenship and welcome you as partners in a noble enterprise and ask that you work with us to extend and strengthen it.

You who were born abroad and have attained American citizenship through the process of naturalization, are following a path pioneered by many who have contributed much to American life. America is a nation built by immigrants—and by the children of immigrants. With the exception of a very small number of Indians and their descendants, I think we can truthfully say that all of our families were immigrants.

A great many of the men who fought in the American Revolution were immigrants. Immigrants helped to carve out the empire of the West. They toiled to span the continent with railways. They helped build our greatest cities. They enriched our science and our culture, bringing with them their music, their art, their hunger for learning and their appetite for a good life. Above all, they brought a love for freedom—and many good, workable ideas to help us guard the freedom we had already won. The American tradition has been constantly refreshed by ideas from abroad. Fused with our own, these new outlooks and viewpoints have been a continual source of energy and inspiration.

We now look to you new citizens to continue this constructive process. This is one way of showing that you appreciate the privileges given you as full-fledged members of the American community. As you today reach full citizenship, you are taking on new responsibilities at one of the great moments in history, indeed if there was ever a crossroad in history, this is it, this year 1968. Some of you new citizens may become members of our Armed Forces. You will add your sacrifice to the sacrifices made by the people of Southeast Asia who suffer under the heel of communism. In the wake of the peace, which we hope will soon be established, we pray will come a new world. Whether it will be a better world or not, depends upon the millions of human beings living in it. Better worlds are not made by gray-bearded statesmen. They are made by common people—by ordinary people like you and me.

Taking part in shaping the future is an exciting task and it begins right here at home. Democracy is a cooperative way of life in which each citizen is expected to make decisions. It is a personal obligation upon each of us to grasp the fundamentals of economic, political and international affairs. That is the challenge which our way of life makes for us.

This year especially, great decisions overseas will depend in no small measure on decisions we make at home. The whole conduct of the war in Vietnam is being thrashed out in public as our citizens, old and new alike, prepare to go to the polls to elect a President. And while this preparation is going on, men are all too likely to call one another bitter names while batteries of accusations will be hurled back and forth. This will perhaps seem strange to you new citizens but don't be deceived by these excesses. Underneath it all lies one of the fundamental processes of free men—the right of free speech and the right to choose those who govern us. Picking one's rulers is not easy. You won't find a neat little tag attached to each candidate, telling the size and shape and content of the program he stands for. It is part of our business as citizens to find these things out for ourselves. Being an American means being on your toes—it means working with other Americans of every race, creed and ancestry to solve the many problems confronting us today. These are not empty phrases; they represent a way of life that has brought us prosperity and power, made us the envy—and hope—of the world.

The gravest challenge to our way of life is not on the battlefield but the subversive elements like Black Power and White Supremacy which promote notions and programs that are the very opposite of Americanism, hammering at the foundations of our national unity.

As you have today entered the golden-gate of citizenship it behooves you to pause frequently and appraise that citizenship, placing as much emphasis on its duties as its privileges. These two elements of the modern concept of citizenship—rights and duties—are mutually interdependent. The citizen will continue to enjoy his civil rights and liberties to the extent that he continues to perform his civic duties. First of all, you have the right to speak and write your thoughts and to assemble with your fellow Americans or even to march peacefully as a means of protest for the purpose of solving the problems which confront you. If you have a grievance you are entitled to petition those in authority to remedy them and obtain relief in a lawful manner and not to riot. Our Government has now established a riot-control center and will not permit the kind of riots that have taken place in America to continue.

The National Advisory Commission on Civil Disorders appointed by the President stated unequivocally that "The vital needs of our nation must be met; hard choices must be made". Violence cannot build a better society. Disruption and disorder nourish repression, not justice. They strike at the freedom of every citizen. The community cannot—it will not—tolerate coercion and mob rule be it on the College Campus, in the streets of the ghetto or in the lives of people.

Our government has designated this day as Law Day.

Our heritage of democratic government can be assured when the laws of our country are honored. Decisions forced by demonstrators of whatever age group or for whatever cause can not be allowed to become a way of life in America.

You now have the right to vote—you have the right to choose your work and your profession. As Americans, we have the right to speedy trial by jury if we are accused of a crime. Before the courts, every man is equal and there is the same justice under the law for the poor man as there is for the rich.

Another one of our rights is the privilege of educating our children in the free public schools. No other nation in the world has finer schools and nowhere in the world are the educational opportunities so great.

But self-government is weighted as heavily with obligations as it is with privileges. As an American therefore, your first duty is to obey your country's laws. Yours is the duty to pay such taxes as are assessed by your government. You have a duty to serve on a jury when called, you have, above all, the duty to defend your country when you are called to the colors. Remember that we are not Americans simply because we call it our country. Nor are we Americans because we are citizens whether native-born or naturalized as you are today. No—we are Americans because we have something in common with the Americans of the past who put the seal of their spirit and the imprint of their hands on this blessed land.

Loyalty to our country and our flag is of course included in the meaning of Americanism. Loyalty alone, however is not sufficient to make one a real American. To be an American means to share all the ideals of the American people and to be ready to serve them. Any good man and any good woman can be a good American. No matter what our ancestry has been, no matter where we were born, no matter what our race or religion, if we are bent on being good, we can be first-class Americans.

America is indeed *people* for there are other lands with "rocks and rills, with woods and temple hills"—perhaps none blessed with such a profusion of nature's goodness and grandeur as this America of ours—but its uniqueness is to be found in that miscellany of people—the dreams, the hopes, the aspirations which they brought with them from many lands, the possibilities which they saw in this new world to build a better, finer, nobler society than this earth has ever seen.

America is the promise of the schoolyard where dark-skinned children play with curlyheaded Jewish girls and boys. America is the baseball diamond where crowds shout for a home run by a Negro and applaud when a Scandinavian or Pole or Dutchman or Irishman steals a base. America is the promise of the football field where Notre Dame and Army and Holy Cross and Navy meet while thousands cheer their favorites on to victory.

America is Broadway and Hollywood where the dazzling lights, the screen and television illumine our entertainment world with illustrious names which are derived from every race and land. America is the free and vehement discussion round the cracker-barrel of the cross-roads country store or magnified a thousand-fold over our radios and TV screens where men can dare to differ in the democratic way. America is the spectacle; the only place perhaps on earth where ministers and priests occupy pulpits of Jewish synagogues and rabbis are welcomed into the chancels of the Christian church and occupy chairs in Catholic colleges and universities; America is the unknown soldier whose crumbled skeleton may be that of a Negro, a white, a Christian, a foreigner or a Jew. America is the S.S. Dorchester torpedoed, where at her rail were those four brave chaplains, one Catholic, two Protestants and one Jew, linked arm in arm, chanting together prayers to their common Father as they descended together into their common watery grave because they had given their life-belts to their comrades, their fellow-Americans. That, too is America! America is the air of feeling free, the right to speak one's mind out. America is the railroads and airplanes and the Empire State Building, yes; but it is also, in the words of one of our popular songs: "the folks beyond the railroad, the people all around; the worker and the farmer, the men who built this country, that's America to me; the people who just came here, or from generations back; the town-hall and the soap-box, the torch of liberty, home for all God's children; the words of Lincoln, of Jefferson and Paine and the tasks that yet remain; the little bridge at Concord, where freedoms fight began, Gettysburg and Midway, and the story of Bataan . . . a house that we call Freedom, the home of liberty, and the promise of tomorrow . . . that's America to me."

Let America feelingly mean to you the beauty, the nobility and the sublimity that America really means to be. You now join your fellow-Americans in making America's efforts to bring all men to true brotherhood, the deliberate aim of all your daily dealings.

Swear by the precious, glorious yesterdays of our great Republic;

Swear by the blood that stained the snow at Valley Forge and crimsoned the coral reefs at Iwo Jima;

Swear by the persisting voices of long-dead patriots echoing down the vestibules of time that eternally challenging cry, "Give us Liberty or give us Death";

Swear by the heartaches and heartbreaks of broken experiments in government, that our way of life shall be the way of the handclasp and heartclasp;

Swear by those imperishable documents, that tell in no uncertain terms our plan and program for the eventual fellowship of men at peace the whole world over . . . But at the same time *Swear* and *Dare* to preserve at any cost, these democratic privileges and these birthrights, with your very lives if necessary. Only so will you help to make that kind of an America for which our Fathers fought and bled, that kind of America which they thus sought to establish as an inheritance of happines for us, for our children and for generations unborn.

It is my hope that you will fulfill the faith that your country is placing in you, in giving you the precious honor of citizenship. It is my hope that you will help your fellow Americans to pass on unimpaired, the cherished values of which we of this generation are but trustees. I warmly extend to you my hand and my heart in welcoming you to the brotherhood of America.

THE CHALLENGE OF THE LATER YEARS

Mr. MUSKIE. Mr. President, the month of May has been designated as Senior Citizens Month by President Johnson. In his proclamation the President calls upon the Federal, State, and local governments, in partnership with private and voluntary organizations, to join in common efforts to give further meaning to the continuing theme of this special month: "Meeting the Challenge of the Later Years."

In the May issue of Aging, a magazine published by the Administration on Aging of the Department of Health, Education, and Welfare, there are two short articles which demonstrate how one organization and how one outstanding senior citizen are "Meeting the Challenge of the Later Years."

The first article describes the efforts of the Smithsonian Associates, a private nonprofit organization, in making the educational resources of the Smithsonian Institution available to senior citizens. The Smithsonian Associates are to be commended for their outstanding work in bringing educational movies, lectures, and other enrichment programs to our senior citizens.

The second article tells the story of Charles Greeley Abbot, the nearly 96-year-old former Secretary of the Smithsonian Institution who retired in 1944. Dr. Abbot continues to work a 10-hour day at home and still comes to work once a week in his 11th floor office atop a tower in the original Smithsonian Institution Building.

His accomplishments in the field of astrophysics are internationally recognized. Dr. Abbot is honorary research associate of the Smithsonian Radiation Biology Laboratory, which he founded in 1929.

Mr. President, I ask unanimous consent that these two articles be printed in the RECORD at this point as an example of the kind of programs for our senior citizens that were called for by President Johnson, and as a tribute to an outstanding senior citizen who has accepted the "Challenge of the Later Years."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

SMITHSONIAN PROGRAMS FOR OLDER PEOPLE—HOW AN UNUSUAL ORGANIZATION IS PLANNING TO INCLUDE OLDER PEOPLE IN CULTURAL AND EDUCATIONAL ACTIVITIES IN WASHINGTON, D.C.

Smithsonian Associates was established as a private nonprofit membership organization in 1965 on the 200th anniversary of the birth of James Smithson, an English scientist who left his entire fortune to the U.S. Government to found the Smithsonian Institution.

To make available the resources of the Smithsonian's education and research activities, the Associates offers films, concerts, and lectures; conducts special guided tours, demonstrations, and field trips; and schedules classes taught by Smithsonian scientists and scholars on such subjects as American history antiques, anthropology, fossils, and the physical evolution of the earth.

To help older and retired people who would not otherwise be able to participate in these classes, the Associates offers a few scholarships. Proceeds from the Associates' luncheon talks are being used to send speakers to institutions in the community, including homes for the aging. Last year the Associates provided a speaker to the Springdale Terrace housing project in Silver Spring, Md., and one to the Old Soldiers Home in Washington, D.C. In addition, transportation was provided from the Roosevelt Retirement Hotel for older people who wished to attend a film showing at the Smithsonian.

This year the Associates hopes to purchase a bus so that it may offer more opportunities for older people to attend its programs.

All of the Associates' activities are financed from contributions and membership fees and no Federal funds are involved. Much of the day-to-day work of the organization is performed by volunteers, one of whom is 80 years old this year.

Ninety-six years old on May 31, Charles Greeley Abbot, doctor of science and astrophysics, is a man distinguished for vastly more than nonagenarianism.

He still works with, for, and at the Smithsonian Institution, his sole employer for 73 years—since 1895, after he took his Master of Science degree at Massachusetts Institute of Technology.

He still works a 10-hour day at home, although he "retired" in 1944 as Secretary of the Smithsonian, a post he took in 1928.

Once a week he comes downtown to work in Washington's most unusual office—the 11th floor of a medieval tower topping a castle in the heart of the city—serene amid teeming modern government buildings, lofty cranes, tunnel excavators, snarling motor traffic, and alongside a full-sized space vehicle.

He probably has put in more years in the executive branch of the Government than anyone in history, the U.S. Civil Service Commission says.

He sometimes works his secretary, Mrs. Lena Hill, who is "only" 78, until 9 p.m. and on Saturdays. (On Sundays Dr. Abbot goes to church; he preached a sermon on his 95th birthday.)

For nearly half a century he has been predicting local and global weather on his own theory which relates rainfalls to solar radiation. Fewer meterologists than formerly scoff; there is the Abbot 1923–52 study proving such correlation, with projections. And Dr. Abbot is honorary research associate of the Smithsonian's Radiation Biology Laboratory, which he founded in 1929.

Possibly the best terse reaction to Abbot is that of a recent visitor. After learning of the doctor's great age, accomplishments, and activity, the newcomer peered at his tower in the Smithsonian castle and asked: "Are you sure he's not Merlin?"

THE BALANCE OF PAYMENTS

Mr. TOWER. Mr. President, I support S. 3218, which will come before the Senate shortly, and urge the Senate to give its approval to the bill's provisions. The stated purpose of the measure is to "improve the balance of payments and foster the long term commercial interest of the United States" by broadening the scope of Government financing of exports.

In essence, S. 3218 would authorize the Bank to facilitate through loans, guarantees, and insurance, certain export transactions which, in the judgment of the Board of Directors of the Bank, do not meet the test of reasonable assurance of repayment as provided in section 2(b)(1) of the Export-Import Bank Act of 1945, as amended. Mr. President, the Banking and Currency Committee is clearly of the opinion, and this opinion is overwhelmingly supported by all the witnesses before the committee, that this does not mean a transition in the Export-Import Bank from a hard loan to a soft loan agency. Chairman Linder has very clearly pointed out to this committee that when the Board of the Bank finds the risks involved in a particular loan application are greater than the Board believes it should undertake, the transactions will then be looked at in the light of this new authority. The essential considerations, he further states, will be:

What reasonably near-term benefits to the balance of payments can we hope for from this sale? If even such benefits are marginal, does the sale carry with it significant potential for follow-on orders, for market penetration, or for other longer-term benefits to our on-going commercial interests? And, ultimately, is the prospect of repayment adequate, even though it does not amount to "reasonable assurance," to justify Ex-Im Bank support? On this last point, I can assure you that Ex-Im Bank is well aware that it is only repayments of principal and interest on export credits, and not the credit sales as such, that will help our balance of payments. Consequently, we shall certainly not approve every application which comes our way. Ex-Im Bank has never been a soft loan agency. Neither the Administration nor the management of the Bank intends that this legislation should make it one.

Mr. President, under present statutory authority, the Export-Import Bank is limited to credits offering "reasonable assurance of repayment." Under S. 3218, $500 million of the Bank's present authorization will be set aside as a separate fund, or category, to which this limitation will not apply. Instead, as to this special fund, the criterion is to be whether the loan will improve the balance of payments and foster the long-term commercial interest of the United States.

The Senate, I am sure, is mindful of the extraordinarily important role the Export-Import Bank has played for many years in financing the exports of the United States into areas where credit risks were high. Time and time again, the Bank has inaugurated new techniques and introduced new principles of international finance, and these new plans, new ideas, new techniques have been followed, for the most part, by all the great exporting nations of the free world. In Japan, the Government-financing facility is even named "Export-Import Bank" and is copied directly from our Export-Import Bank, even to the extent of the printing of its brochures.

Implicit in the testimony before our Senate Banking and Currency Committee, which held hearings on the bill, was the understanding that the great efforts of the Export-Import Bank are genuinely appreciated and acknowledged. But, also, implicit was the feeling that the time has come when the Export-Import Bank can, should, and will do more to promote the exports of the United States if a very reasonable modification is made in its statutory authority.

The climate in which the Bank has operated is changing very fast. Our exports have lately been declining and our imports increasing. Our trade surplus decreased from $6.6 billion in 1963 to less than $3.6 billion last year. Inherent in all business transactions is financing.

The strong arm of financial encouragement is badly needed to support our effort to increase our exports. Private finance carries the major burden of financing the exports of the United States but is not, at this time, in a position to give the needed financial encouragement which could, in a very substantial way, increase the flow of exports. Domestic pressures on our private financial institutions are so severe today that they cannot be expected to respond in the international field to the degree necessary. Nor can the private banks be expected to respond in the areas where credit risks are great, and these happen to be the same areas where the United States can increase its exports.

Mr. President, the Export-Import Bank has been operating longer than practically any other Government international credit facility situated in any country abroad. It is true that the Bank has built up substantial reserves, but it is even more important to note that the Bank is heavily committed in many underdeveloped and developing countries. While the Export-Import Bank may have $5 billion in loans, guarantees, and insurance outstanding in such countries, another credit facility located abroad may have only a few hundred million, or even less. As the Bank's credit commitments increase in a particular country, its risks of taking large, sudden losses as the result of general political or economic developments there also increase.

Thus a certain private credit risk in a given country may be quite good, and yet, because of the large credit commitments the Bank has in that country, the Board of Directors of the Bank may find considerable difficulty in determining that in that particular instance there is a "reasonable assurance of repayment." The borrower, a private concern, may have the most adequate credit responsibility, and yet the Bank cannot make the necessary determination.

Contrasted to the situation faced by the Export-Import Bank, a foreign government credit facility, or central bank abroad, not so heavily committed as the Export-Import Bank in a particular importing country, may, therefore, be quite willing to guarantee credits of a much lower quality for the single reason that it has a small extension of risk at that particular time.

Mr. President, competition is very keen in the marketplace of the world. This fact alone would give support to this legislation even though we were not faced with serious balance-of-payments problems. The passage of S. 3218 will encourage acceptance of our exports in difficult markets. It will assist in the establishment of our products in new markets and expanding markets where the potential for repeat sales is high. Indeed, it will also assist and facilitate the maintenance of existing export markets.

The principles and philosophies associated with S. 3218 have been under consideration for several years. In 1966, the Action Committee on Export Financing of the National Export Expansion Council proposed the creation of a somewhat similar National Interest Fund in the Export-Import Bank. The proposal also finds its origins in the Exports Expansion Act introduced in the Senate in 1965.

Mr. President, in light of the statements made before the committee by the Chairman of the Export-Import Bank, those made by the president of the Banker's Association for Foreign Trade, and the president of the Machinery and Allied Products Institute, there was some difference as to how conservative the Bank really has been and how liberal it may be under the new legislation. While the Chairman speaks of using the Bank's same hard terms and conditions and that the Bank shall expect normal cash payments and exporter participation, the witnesses from banking and business speak of the need for the commitment of some part of the Bank's resources to the truly imaginative use of credit which can open trade doors and meet competition. I feel that the witnesses from the banking and business sources more accurately equate the purpose of this new legislation. But I also feel that the desired results can very well be accomplished without turning the Bank into a soft loan agency. In the days ahead, there is more need for the Bank to act as an accelerator rather than a brake.

Mr. President, if S. 3218 is administered by the Bank as intended by the legislative history thus far existing, this new facility of the Bank can quickly become a forceful and useful addition and of tremendous importance in our efforts to solve the balance-of-payments problem and to foster the long-term commercial interests of the United States.

PULITZER PRIZE WINNERS

Mr. SMATHERS. Mr. President, the Pulitzer Prize is generally regarded as the most prestigious award a journalist can receive. It was therefore with some pride that I read that in this year's awards the Knight Newspapers came away with not one but three Pulitzer Prizes. This journalistic three-bagger is not only a record of its kind, but a particular tribute to the energetic John S. Knight, who as chief editorial executive of the newspaper chain bearing his name, won one of the three prizes for his own editorial efforts. John S. Knight is a man I have known and respected for many years. My hometown newspaper, the Miami Herald, is typical of the kind of prize-winning newspaper which Mr. Knight publishes.

I ask unanimous consent, Mr. President, that an editorial which paid tribute to John S. Knight, published in the Washington Evening Star, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

KNIGHT'S TRIPULITZER

In ice hockey, the scoring of three goals in a single game by one player is known as the hat trick. In newspapering, the winning of three Pulitzer prizes by a single newspaper group hasn't got a name, for the ample reason that—until this year—it had never been done in the 52-year history of the prestigious award.

It might, perhaps, be called the hat's off trick.

John S. Knight, at age 74, serves very actively as principal owner and editorial chieftain of the Knight Newspapers. At a time of life when many men are content to sit back and let their thoughts wander through the misty maze of memory, Knight is busy honing his mind against the great issues of the day and setting forth his crisp and forceful opinions in signed editorials. Pulitzer prize number one, for distinguished editorial writing.

The staff of the Detroit Free Press, a major link in the Knight chain, rose to the challenge of the 1967 Detroit riot with clear unhysterical coverage of the event and a thoughtful probe of its causes. Pulitzer prize number two, for local reporting.

On the payroll of the Charlotte, N.C., Observer, is one Eugene Gray Payne, a young man nobody much outside of the home town had ever heard of. They have now. Pulitzer prize number three, for the outstanding editorial cartoonist for the year 1967.

It is unfortunate that the Free Press has been deprived of some justified crowing on behalf of itself and its sister publications. The newspaper has been shut down by a labor dispute since November. Since they cannot do it themselves, we salute them and the other Knight winners with enthusiasm, a touch of envy and a great deal of admiration.

GRADUALISM

Mr. MURPHY. Mr. President, I am very much pleased to serve on the Republican Coordinating Committee and to have had a part in the deliberations of many men more expert than I which led to the publication of a policy statement on gradualism.

Our Nation's current peace efforts are fully supported by me and by all other members of the Republican Coordinating Committee. Our discussion of gradualism is not a criticism of current and continual peace efforts. It is, instead, a critique of the military strategy of the past two administrations. Our policy paper seeks in concise terms to go to the root of the problem—for the same strategic miscalculations which have led us into the morass of Vietnam, have also undermined our previously strong position in Europe.

I ask unanimous consent that the text of the Republican Coordinating Committee paper entitled "Gradualism: Fuel of Wars" be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

GRADUALISM: FUEL OF WARS

(OVERALL COMMENT.—This position paper is concerned with the basic military policies developed by the government of the United States over more than seven years; and should not be interpreted in terms of a specific event or time frame.)

INTRODUCTION

Peace is poorly served by those who shrink from the steps necessary to ensure it.

For almost a quarter century—ever since the explosions at Hiroshima and Nagasaki—the world has been tormented by the realization that the human race has at last achieved the capability of self-destruction through nuclear war. This dread menace has profoundly influenced the strategic policies of the United States and given rise to two

sharply differing approaches to our security requirements.

The first—a cardinal feature of the Eisenhower years—was to ensure peace through an unmistakable determination to protect the vital interests of the United States anywhere in the world. This determination was made plainly evident to all through Administration policies, capabilities, statements and deeds. It was a policy of flexible deterrence through credible firmness—a policy retaining initiative and freedom of action in American hands. There was no apology for strength. There was no mistaking the sternness of the national will.

And America stayed at peace.

A military power strong enough to maintain the peace must follow four principles as old as warfare and diplomacy: It must maintain a force strong enough to meet any challenge; it must be prepared to crush all threats to the peace with force if required; it must clearly convince those who would disturb the peace that force will be used against them; and, once force is brought into play, it must be applied to the fullest extent the situation may demand.

Beginning in 1961 two related doctrines began to evolve and in succeeding years have radically altered our nation's defense planning. One is a basic revision of an earlier concept known as "flexible response." The other was a singular stratagem called "gradualism." Flexible response, in the current thinking, does not mean, as it has historically meant, the capability to respond to a variety of threats with applicable and sufficient force to crush it. It has come to designate instead a deliberate policy of reaction which induces stalemate. Though separate doctrines, conceptually they have the same effect—to de-emphasize our strength, leash our power, and replace our superiority with "parity," all in the euphoric hope that through such demonstrations of peaceful purpose and restraint, America would entice her sworn enemies away from aggression and subversion and into the pathways of peace.

However well intended, these departures have been tragic for America. Prudent firmness was displaced by extreme caution, then hesitancy, then indecisiveness. Unchallengeable power was eroded by the factor appearance of wavering will. Our tested guardians of peace—manifest strength and determination—have lost credibility throughout the world.

And so, two doctrines—the revised "flexible response" and "gradualism"— have grievously disserved the United States. They have fostered aggression. They have prolonged and escalated a war, undermined our alliances, divided the nation and stripped our reserves to the bone. As doctrines of response, not of initiative, they have created a world-wide crisis of confidence in United States deterrence. In place of peace they have spawned the very evils they were conceived to banish—war and escalation of war.

FLEXIBLE RESPONSE

"Flexible response," a traditional military concept, is neither complex nor objectionable. It prescribes the maintenance of military forces capable of containing all levels of aggression from guerrilla actions to unlimited war. For many years the armed forces of the United States adhered to this doctrine.

In very recent years a deadly new definition has been introduced transforming "flexible response" from an instrument for peace into a trigger of wars. As revised by the present Administration, "flexible response" means to an aggressor that his military excursions will initially encounter only comparable force. Thus war is invited as aggressors measure attractive options—freedom to choose the time, the place and the means of doing battle, all with an acceptable risk. Assured that America's crushing forces will be dribbled into battle, the military marauder is encouraged to believe that even a protracted conflict will be pursued on his terms.

It is this new application of "flexible response" that is conveyed when the expression appears in this paper.

GRADUALISM

As the new version of "flexible response" invites war, so "gradualism" escalates war once begun.

Ironically, gradualism—designed to prevent intensification of war—does the very opposite by preventing timely use of force against aggression. While "flexible response" blunts our first reactions, gradualism assures the aggressor that our subsequent reactions will also be cautiously phased to prevent over-application of force. Skillfully and patiently applied, the process can hardly fail to nourish a skirmish into a major war.

Moreover, after each carefully restrained escalation, gradualism dictates a "pause." This ingenuous stratagem is in effect a one-sided military recess during which the enemy is importuned to recalculate his risks and contritely review his indiscretions as his own depredations continue. The "pause," occurring when the aggressor's force has been at least temporarily stalemated by our military effort, actually enables the enemy to recoup his strength at his most vulnerable moment. Thus rejuvenated by successive pauses, the struggle continues and intensifies.

America's laboratory for testing the gradualism experiment has been Vietnam. There it has failed—it has prolonged and escalated the war.

It has permitted North Vietnam to acquire the weapons, supplies and training from the Soviet Union and Communist China needed to maintain and expand its war-making capability and to withstand punishing attacks. It has preserved the sanctuaries in which the Communists can safely regroup and reinforce. It has long delayed interdiction of the flow of suplpies to the South. It has denied our own military the strength and decisiveness the circumstances have required.

So completely has the Administration applied this policy of gradualism that tactical military decisions have been often made by civilians 9,000 miles away in Washington.

Even advance warnings to the enemy of U.S. steps to augment her forces or otherwise strengthen her military position have characterized gradualism in Vietnam. The professed object of this surprising tactic has been to prevent "over-reaction" by the enemy or his allies. One result, however, is clear: the enemy has been allowed to phase his buildup with our own.

Thus, gradualism has salvaged the enemy's warmaking capacity, enabling the tiny nation of North Vietnam to develop a major capability to sustain aggression in the South and to obtain massive assistance from the Soviet Union and Red China to off-set U.S. pressure from land, sea and air. America's overwhelming power has been fended off, not by the enemy, but by our own hand.

We have escalated, through gradualism, a minor engagement into our fourth largest war.

The shackling of our Air Force and Naval air power in Vietnam affords us a striking exhibition of gradualism in action.

In our system it is axiomatic that the highest civilian level of government must establish broad policies to govern the general direction in which our nation is to move. An obsession with preventing escalation of the air war in Vietnam, however, has led the Administration to transfer approval of attacks on specific targets from field commanders and even the Joint Chiefs of Staff to the President himself. Operational decisions reached far away in Washington have prevented some attacks altogether and in other instances have been so delayed as to forfeit precious military advantage. Certain targets unanimously recommended by the Joint Chiefs of Staff two years ago have but recently been placed on the approved lists.

During this long interval between target recommendations and approval, the enemy vastly strengthened his ability to withstand U.S. pressure from the air. He scattered his targets. Many of his vital operations were moved underground. With Soviet assistance he multiplied his air defenses. In the 18 months prior to August 1967, the number of anti-aircraft guns deployed in North Vietnam increased more than 250 percent. Surface-to-air missile (SA–2) sites more than doubled. Radar early warning capability tripled, and radar fire-control capability increased at an even faster rate.[1] U.S. losses in pilots and equipment soared.[2]

Surveying this appalling sequence, the Military Preparedness Subcommittee of the United States Senate reported on August 31, 1967:

"It is not our intention to point a finger or to second guess those who determine this policy, but the cold fact is that *this policy has not done the job and it has been contrary to military judgment.*" (Emphasis added).

A similar sequence has marked the prosecution of the ground actions of this solicitously directed war. As in the application of air power, "too little too late" has been the pattern dictated by gradualism, with consequent terrible cost to us and the stricken people of Vietnam. For many months, the military leadership vainly pressed the Administration for a substantial increase of ground forces for Vietnam. Again, in the long interval that elapsed before his recommendations were approved, the enemy gained time to increase his own strength.

Gradualism has restrained us from applying enough pressure, in adequate time, to convince the enemy of the futility of his effort. Restraints imposed, not by the enemy, but by ourselves, have made it possible for him to carry forward an aggression with a growing expectation of at least partial success.

This conduct of our efforts in Vietnam has been bitterly disappointing both militarily and politically and has imposed immense costs upon the American people. The war has already caused over 100,000 U.S. casualties, consumed some $50 billions of dollars, gravely impaired our international relationships, and sharply divided the American people. Continued adherence to this doctrine promises not only more disappointments, but also an escalating risk of world war.

NATO APPLICATION

The newly revised doctrine of "flexible response" is not regional in scope. Its injury to our nation's vital interests has been worldwide.

Announcement of adoption by NATO of the Administration's version of "flexible response" was made as recently as December 1967, but U.S. acceptance of this doctrine in the early Sixties left NATO no alternative.

Now, Soviet Communism in Eastern Europe can reasonably conclude from U.S. and NATO policy that military response to a thrust from the East would be initially op-

---

[1] Report and Hearings on the "Air War Against North Vietnam" by the Preparedness Investigating Subcommittee of the Committee on Armed Services, U.S. Senate, Aug. 1967.

[2] Ibid, "The North Vietnamese air defense environment overall, including anti-aircraft fire, surface-to-air missiles and Mig aircraft over the heavily defended targets in North Vietnam, has been described as the most deadly that the world has ever seen. The massive air defenses have exacted a heavy toll of American aircraft and pilots. More than 660 planes have been shot down over North Vietnam."

posed only with commensurate force. For NATO, however, conventional response to a major conventional military thrust would be unrealistic. NATO military strategists are acutely aware of this. The huge conventional forces of East European Communism, coupled with the political realities of the region, suggest that the new doctrine of "flexible response" may gravely menace all of Europe.

Before this basic strategic revision, the NATO security design had given full consideration to conventional responses to acts of aggression short of major war. However, it was universally recognized and stressed that this capability had severe limitations. For the enemy who who pushed the alliance beyond these limits, such force as necessary would be swiftly applied. That this force might not materialize was never contemplated. Because it was known to all that the NATO nations had not only the capability but also the will to repel aggression, peace was preserved.

The doctrine of "flexible response" as now incorporated into NATO planning would seem to dictate initial reliance on conventional defense—a doctrine conceding the loss of forward areas early in any conflict. Then, with enemy forces occuping allied territory, our own military options would become critically restricted. Expecting an enemy to desist following his initial success is at best a deadly gamble, and at worst inviting defeat. For the new "flexible response" to become credible for Western Europe, a major increase of conventional forces would be required—an increase so great as to be economically and politically impracticable. We view the incorporation of this new doctrine into NATO security planning as a new "open door" policy—for Soviet Communism.

Shortly after this new doctrine was enunciated, former Chancellor Adenauer expressed concern that it would weaken NATO and cause fragmentation of the alliance. His assessment has since been borne out.

Thus, in but a brief span of years the new defense doctrine "flexible response" has gravely weakened the West's long-established objective of presenting any aggressor in Europe with unacceptable risks.

PREMISES REEXAMINED

In contrast to the Administration's premises, we are convinced that these judgments must underpin America's security policy:

(1) Our defense posture must confront an enemy with a clearly unacceptable risk; otherwise it invites political opportunism and aggression.

(2) Our policies in the course of a conflict must not allow an enemy to control the level and nature of the U.S. military response, or allow him to disengage at will; otherwise they invite a continuing escalation of the conflict.

(3) Our policies must not publicly proclaim that America will withhold any element of her might to prevent or repel aggression; otherwise they strip this nation of those military and diplomate options indispensable to the attainment of her national goals, the success of her foreign policies, and her influence for peace.

SUMMARY

These criticisms of the current doctrines in no way diminish our concern for safeguarding against irresponsibility in the use of military force. In a world of nuclear peril application of direct military force must always be a last resort. Rather, we are convinced that an intensive reexamination of this country's national security policies is long overdue. A re-appraisal of our strategic policies for countering aggression has become critical in the light of our mismanagement of the Vietnam conflict and the thrust of events elsewhere in the world.

It is recognized that certain types of conflict are not susceptible to solution by military power alone. This paper cannot properly be read as embracing the proposition that a military solution to the situation in Vietnam should have been undertaken at its inception 6 years ago. It should also be noted that the paper does not attempt in any way to treat the exceedingly complicated military-diplomatic issue of whether or not this war, having been so grievously mismanaged, can now reach a military solution lacking very major escalations evidently not now contemplated by the Administration.

There is urgent need to establish a credibility with the world at large—indeed, with our own people—that the U.S. does have the determination, and does have the will, to use its strength to restore and keep the peace.

The Administration's beguiling formulation for these new doctrines of "flexible response" and "gradualism" conceals a perilous unrealism. Offered in the name of prudence and humanitarianism, in application these doctrines are breeders of war and killers of men.

The concept that the United States must maintain a measure of military flexibility to counter varying forms of aggression is unchallengeably valid, but it is unrealistic to apply equal emphasis at each level of a conflict spectrum.

We require policies leading to a more efficient and effective military posture which will encourage new weaponry and new strategies by enhancing our total fighting capabilities and their deterrent effect.

Once this nation resorts to arms to stem aggression, force should be applied quickly and decisively to bring the conflict swiftly to an end. The longer a conflict is indulged, the greater the likelihood of its escalation and expansion and the greater its casualties and destruction. *And, once America is committed to military action, we must no longer merely respond; we must achieve and maintain the initiative.*

In view of the current tensions and instability of world affairs, America can little afford to forearm potential aggressors with the assurance that she is unlikely to use any element of her power against them. *Where our vital interests are at stake, meddlers and brigands must know that the risks they face are unacceptable.*

Looking to the future, there remains a probability of conflicts in other parts of the world. Communism is still enamored of fomenting "wars of national liberation." Communist forces are actively probing in the Middle East, Africa and South America, as well as Asia, undermining the established orders and relentlessly striving to extend their influence. The thrust of their effort is still to weaken U.S. and Free World positions in international affairs. Many areas under increasing pressure in recent months are vital to the interests of the United States and the West, as well as to indigenous forces of freedom.

America has neither the aspiration nor the resources to serve as policeman of the world. *Yet, realities of geography, ideology, and international politics dictate that this nation's vital interests project far beyond her shores. We must maintain these interests, and we must defend them. Policies and a posture which unmistakably show this nation's determination to protect these interests will discourage nibbling aggression and reduce the number of U.S. physical involvements.* Such policies, and such a posture, do not exist today.

CONCLUSION

The doctrines of "flexible response" and "gradualism" as developed by this Administration expose this nation and the world to intolerable, largely avoidable risks. They impose terrible costs in lives and resources. They are incompatible with the security of the United States and perilous to world peace.

Our country should announce at the highest level the resumption of a national security policy that the size of our response to aggression will be our own decision tailored to each situation as it arises. A potential enemy will be denied the assurance he has appeared to have under the "gradualism" policy of a moderate and limited price in response to aggression. At the same time, we will continue to have the leeway to make our response as moderate or as potent as we consider appropriate.

REPUBLICAN COORDINATING COMMITTEE

Presiding Officer: Ray C. Bliss, Chairman, Republican National Committee.

Former President: Dwight D. Eisenhower.

Former Presidential Nominees: Barry Goldwater (1964), Richard M. Nixon (1960), Thomas E. Dewey (1944 and 1948), Alf M. Landon (1936).

SENATE LEADERSHIP

Everett M. Dirksen, Minority Leader; Thomas H. Kuchel, Minority Whip; Bourke B. Hickenlooper, Chairman, Republican Policy Committee; Margaret Chase Smith, Chairman, Republican Conference; George Murphy, Chairman, National Republican Senatorial Committee; Milton R. Young, Secretary, Republican Conference; Hugh Scott, Vice Chairman, National Republican Senatorial Committee.

HOUSE LEADERSHIP

Gerald R. Ford, Minority Leader; Leslie C. Arends, Minority Whip; Melvin R. Laird, Chairman, Republican Conference; John J. Rhodes, Chairman, Republican Policy Committee; H. Allen Smith, Ranking Member of Rules Committee; Bob Wilson, Chairman, National Republican Congressional Committee; Charles E. Goodell, Chairman, Planning and Research Committee; Richard H. Poff, Secretary, Republican Conference; William C. Cramer, Vice Chairman, Republican Conference.

REPRESENTATIVES OF THE REPUBLICAN GOVERNORS ASSOCIATION

John A. Love, Governor of the State of Colorado; John A. Volpe, Governor of the Commonwealth of Massachusetts; George W. Romney, Governor of the State of Michigan; Nelson A. Rockefeller, Governor of the State of New York; Raymond P. Shafer, Governor of the Commonwealth of Pennsylvania; John H. Chaffee, Governor of the State of Rhode Island; Nils A. Boe, Governor of the State of South Dakota; Daniel J. Evans, Governor of the State of Washington.

REPUBLICAN NATIONAL COMMITTEE

Chairman Bliss; Mrs. C. Wayland Brooks, Assistant Chairman; Mrs. Collis P. Moore, Vice Chairman; Donald R. Ross, Vice Chairman; Mrs. J. Willard Marriott, Vice Chairman; J. Drake Edens, Jr., Vice Chairman.

PRESIDENT OF THE REPUBLICAN STATE LEGISLATORS ASSOCIATION

F. F. (Monte) Montgomery, Speaker of the House of Representatives, State of Oregon.

Staff Coordinator, Robert L. L. McCormick.

MEMBERS OF THE REPUBLICAN COORDINATING COMMITTEE'S TASK FORCE ON NATIONAL SECURITY

Neil H. McElroy, cochairman, Secretary of Defense, 1957–59.

Thomas S. Gates, Jr., cochairman, Secretary of Defense, 1959–61.

Wilfred J. McNeil, vice chairman, assistant Secretary of Defense and Comptroller, 1949–59.

E. Perkins McGuire, vice chairman, Assistant Secretary of Defense for Supply and Logistics, 1956–61.

Dewey F. Bartlett, Governor of the State of Oklahoma.

William H. Bates, Member of Congress from Massachusetts.

Arleigh A. Burke, Chief of U.S. Naval Operations, 1955–61.

George H. Decker, Chief of Staff, U.S. Army, 1960–62.

James H. Douglas, Jr., Deputy Secretary of Defense, 1959–61.

Harry D. Felt, Commander in Chief in Pacific, 1958–64.

T. Keith Glennan, Administrator, National Aeronautics and Space Administration, 1958–61.

Alfred M. Gruenther, Supreme Allied Commander in Europe, 1953–56.

Craig Hosmer, Member of Congress from California.

William E. Minshall, Member of Congress from Ohio.

James B. Pearson, U.S. Senator from Kansas.

Arthur W. Radford, Chairman, Joint Chiefs of Staff, 1953–57.

Bernard A. Shriever, Commander, Air Force Systems Command, 1961–66.

Mansfield D. Sprague, Assistant Secretary of Defense for International Security Affairs, 1957–58.

Nathan W. Twining, Chairman, Joint Chiefs of Staff, 1957–60.

John G. Tower, U.S. Senator from Texas.

EX-OFFICIO MEMBERS

Robert C. Hill, U.S. Ambassador to Mexico, 1957–61.

Maurice H. Stans, Director of the Bureau of the Budget, 1958–61.

Anthony J. Jurich, Secretary to the Task Force.

PARIS PEACE TALKS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD a transcript of questions which were asked of me during a TV interview which was filmed on May 8, 1968, together with my answers thereto.

There being no objection, the transcript was ordered to be printed in the RECORD as follows:

TEXT OF SENATOR BYRD'S TELEVISION INTERVIEW, MAY 8, 1968

Question. Senator Byrd, you're a member of the Armed Services Committee. Would you comment on the beginning of the Paris negotiations on the Vietnam War?

Answer. Well, the choice of Paris was a compromise, and while there are many people who feel that President De Gaulle might try to negotiate the outcome of these talks—we all know that he is an extremely vain man, and that he was never wanted to see the United States succeed where France failed—I think most of our officials feel that the French authorities will assume a neutral role in the talks. The first order of business, of course, will be to determine whether or not there is any particular issue on which both sides are willing seriously to negotiate, and I am encouraged by the fact that we are going to have some talks. But I am not necessarily optimistic at this point. I would caution anyone who feels peace is near that we still have a long and difficult and dangerous road.

Question. How do you view the stepped-up attacks on Saigon and other Vietnamese cities?

Answer. Well, I think these are an indication that the North Vietnamese and the Viet Cong are trying to take advantage of the bombing halt in the North to improve their bargaining position. And I am afraid they are going to continue to try to take advantage of this bombing moratorium in order to improve their position. Since the bombing pause went into effect, they have sent tens of thousands of men in to the South.

Question. Well, Senator Byrd, how do you view the position that this puts us in, while we are in Vietnam?

Answer. Well, I think it puts us in an an increasingly difficult position there. We're not going ahead with any buildup of our forces in South Vietnam. And, as the North Vietnamese continue to send tens of thousands of men into the South, of course this is going to make the position of our own fighting men more difficult. I don't know just how long we can continue to maintain this bombing moratorium in the North. Because, certainly, the North Vietnamese are taking advantage of it. And I am fearful that Hanoi will attempt to stretch out, drag out, the talks, in Paris or elsewhere, wherever a subsequent meeting may take place if it does take place somewhere else, in order to continue to build up their forces and improve their bargaining position.

Question. In another area of the world, how do you view this rather tense situation in the Middle East?

Answer. Well, I view this situation with a great deal of concern. Of course the Middle East constitutes the crossroads of three great continents, Europe, Asia, and Africa. And the oil reserves in that part of the world are tremendous. From a military point of view, this area of the world is the most strategically located, and I am afraid that Russia is building up her forces there to an extent that we may be greatly endangered in the future. For example, the Russians now have about 40 warships in the area, whereas about two months ago they only had about 30. And, by the end of the summer, the Soviet armada will outnumber our own Sixth Fleet, which is in the area. Now I don't take sides as between the Arabs and the Israelis, and I don't think our country should take sides. I think that the purpose of our country should be, simply, that we ought to try to bring about a reconciliation between the Arabs and the Israelis and, try to avoid a confrontation there which would involve the major powers; and in the meantime we should do everything we can to prevent, if we can, the Soviets from accumulating such power there as to place us at a distinct disadvantage.

HUMAN RIGHTS CONVENTION STILL IGNORED

Mr. PROXMIRE. Mr. President, shortly after World War II ended, there was a great deal of effort expended to bring about something resembling an international bill of rights. The plan was similar to that envisioned at the U.N. in San Francisco.

It was December 1948, when the Universal Declaration of Human Rights was produced in the General Assembly. Simultaneously, a genocide covenant was given approval and has long since been adopted by the requisite number of nations to be effective as to the signatory nations.

I might have pointed out that even this treaty, designed to prevent the systematic destruction of people on racial, religious or cultural grounds, exists on paper only so far as this Nation is concerned.

The unfortunate fact is that the Human Rights Convention on Genocide—given unanimous vote by the U.N. General Assembly on December 9, 1948, signed in behalf of the United States 3 days later, submitted to the Senate for ratification on June 16, 1949, referred to the Committee on Foreign Relations the same day, and later considered by a subcommittee—is still lying ignored in the Senate.

Meaningless reasons were issued for the failure since 1950 to reaffirm this country's constitution and moral obligation to make genocide a crime against mankind.

Our country is in the unique historical position of having demonstrated in a practical manner the effectiveness of a bill of rights.

We have a great moral duty to take action now to lead the battle for the recognition of human rights everywhere.

The least we can do now is to ratify the Genocide Convention.

Let us do it now.

THE CLARK EQUIPMENT CO.

Mr. HART. Mr. President, the Chicago Sun-Times recently ran a story about a U.S. business firm that is managing to maintain both domestic and foreign growth while closely observing the new regulations on overseas investment.

The corporation is the Clark Equipment Co., of Buchanan, Mich. While most of us are always prepared to take note of admiring remarks about constituent companies, this article might also be of special interest to everyone concerned with the balance-of-payments problem.

I ask unanimous consent that it be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, May 3, 1968]

FROSTING ON CAKE: OVERSEAS MARKETS AND PROFITS

(By Edwin Darby)

This is having your cake and eating it, too, an example of the smart American businessman at work.

Sales of Clark Equipment Co. products outside the United States and Canada last year hit $164,000,000. This was an increase of $4,000,000 despite the economic slowdowns in England and Germany (since rebounding).

The greater part of these sales were generated by Clark plants in foreign countries—10 subsidiaries, 17 affiliates and nine licensees in 19 countries in Europe, Latin America, Australia, the Far East and Africa.

But $32,000,000 of the total was accounted for by goods shipped from Clark plants in the United States to foreign points.

Thus a goodly number of Clark workers in this country owe their jobs to Clark's direct exports. That's to say nothing of the profits the company made out of the direct export trade, a significant factor in that it raises production volume for the U.S. factory and lowers unit costs. And this is to say nothing of the products and materials from steel on down, that went into the finished products Clark shipped out of this country.

There's more to this pleasant business of having your cake and eating it, too.

Last year more than 22 per cent of the Clark company's consolidated net income of $23,000,000 came from sources outside the United States. This does not include the net income from the direct export shipments from the United States. It does include the money made from Canada and the dividends, license fees, interest payments and other monies earned by Clark in Europe and around the world.

BALANCE OF PAYMENTS

There's still more to the story than this, more than the effect on Clark, its stockholders and employes and its suppliers. Clark has done very well by the United States and our balance-of-payments problem. Last year, balancing out the value of what the company sent overseas against the value of what it got back, Clark made a favorable contribution of $56,000,000 to the U.S. balance. Since 1961, as the U.S. balance of payments problems has mounted each year, Clark has had a favorable dollar balance from international operations of $233,000,000.

This is the kind of thing that bankers and economists worry about when they think of the long-range effects of the President's efforts to curb overseas investment by American corporations. It is admitted that today, for the short run, it helps alleviate a critical situation if an American corporation is prevented from sending $1,000,000 or $10,000,000 to Europe to build a factory.

But what of the situation next year or five years from now? If Corporation X has been prevented from building the factory this year, it won't be sending money home next year.

By the end of last year, Clark had $43,700,000 tied up in investments and assets outside the U.S. and Canada. Without the original expenditure of dollars, the benefits to the company and to the balance-of-payments position would not be coming in today.

But, further, having firmly established its position overseas, Clark is now able to do some helpful maneuvering. Despite the Washington restrictions on new investment in such places as Europe, Clark is able to carry forward expansion projects. And to actually reduce its dollar investment.

MAINTAINING PACE

While Clark had assets and investments overseas of $43,700,000 last year, this was actually a reduction of exactly $5,000,000 from its 1966 commitment. The Buchanan (Mich.) company, moving with sophisticated expertise in the money capitals of Europe, was pulling capital home and meeting its needs through debt financing in the home country of its foreign operation.

As Clark's president, Walter E. Schirmer, has said, "Because of our borrowings overseas, we expect to maintain our rate of expansion overseas within the limitations imposed by the new government regulations on direct overseas investments . . . and the overall outlook for Clark's international operations appears favorable."

Clark, like any number of other U.S. companies, is indeed having its cake and eating it, too.

There's only one trouble with all this. With inflation, with controls, the trick is getting more and more difficult to turn.

NATIONAL SMALL BUSINESS WEEK

Mr. DOMINICK. Mr. President, this is National Small Business Week, proclaimed in honor of the thousands of small businesssmen throughout our country. I think it is most appropriate to pay recognition to these entrepreneurs who express through their independence and competitive spirit the viability and strength of our economy. Since my appointment to the Select Committee on Small Business, I have become increasingly aware of the enormous contributions to growth, innovation, and community pride made by those who are closest to the American consumer. Our small businessmen have taken leadership in providing employment opportunities and in civic progress, hastening the day when our society will offer to each and every citizen the ultimate fulfillment of his talents.

I am happy to point out that Colorado is taking part in our recognition of the small businessman by proclaiming its own Small Business Week, also this week. I ask unanimous consent that the executive order issued by Gov. John Love to mark the beginning of Colorado's Small Business Week be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

EXECUTIVE ORDER: PROCLAMATION, SMALL BUSINESS WEEK, MAY 12–18, 1968

Whereas, the small businessmen in this State, along with small businessmen throughout the Nation, actively perpetuate the open and competitive marketplace so vital to our free enterprise system; and

Whereas, small businesses are close to the American consumer, providing much of the goods and the majority of the services we need in our daily lives; and

Whereas, small businesses offer job opportunities for job seekers of all races and all creeds; and

Whereas, small businessmen are recognized as leaders in the social and economic development of their own communities; and

Whereas, small businesses are the source of many innovations in products and merchandising;

Now, therefore, I, John A. Love, Governor of the State of Colorado, do hereby proclaim the week of May 12–18, 1968, as Small Business Week in Colorado, and call upon the chambers of commerce, industrial and commercial organization, board of trade and other public and private organizations to participate in ceremonies recognizing the contribution made by the small businessmen of this State to the progress and well-being of all our people.

Given under my hand and the Executive Seal of the State of Colorado, this Twenty-Fifth Day of April, A.D., 1968.

JOHN A. LOVE,
Governor.

HUMAN RIGHTS: WORLD PROBLEMS AND AMERICAN POLICIES—ADDRESS BY JAMES FREDERICK GREEN

Mr. HARTKE. Mr. President, 20 years ago, on December 10, 1948, the United Nations General Assembly, meeting in Paris, adopted the Universal Declaration of Human Rights. The adoption of the Universal Declaration, by unanimous consent vote, was a landmark in mankind's progress toward freedom. This was the first time that the world community had agreed upon a statement of goals and standards concerning human rights. Thanks to the leadership given in the drafting of the Universal Declaration by the American representative, Mrs. Eleanor Roosevelt, that document reflects the best in the American tradition.

On May 4, Mr. James Frederick Green, Executive Director for the President's Commission for the Observance of Human Rights, addressed the International Human Rights Workshop in Indianapolis, Ind. Mr. Green's remarks, entitled "Human Rights: World Problems and American Policies," are most enlightening. I ask unanimous consent that they be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, on May 4, 1968, Mr. James Frederick Green, the Executive Director of the President's Commission for the Observance of Human Rights Year 1968, delivered an interesting and timely address before the International Human Rights Workshop at Indianapolis, Ind.

It will be recalled that President Johnson on January 30 established a Commission for the Observance of Human Rights Year. This Commission was charged with "shaping the variety of our efforts with a major and purposeful national contribution" and with enlarging "people's understanding of the principles of human rights as expressed in the universal declaration and the Constitution and in the laws of the United States."

Mr. President, I commend the address to the Senate and join my senior colleague from Indiana in asking unanimous consent that it be printed in the RECORD.

The address was ordered to be printed in the RECORD, as follows:

HUMAN RIGHTS: WORLD PROBLEMS AND AMERICAN POLICIES

(Address by James Frederick Green, Executive Director, the President's Commission for the Observance of Human Rights Year 1968, at the International Human Rights Workshop, Indianapolis, May 4, 1968)

Twenty years ago, on December 10, 1948, the United Nations General Assembly, meeting in Paris, adopted the Universal Declaration of Human Rights. The adoption of the Universal Declaration, by a unanimous vote, with eight abstentions, was a landmark in mankind's progress toward freedom. This was the first time that the world community had agreed upon a statement of goals and standards concerning human rights. Thanks to the leadership given in the drafting of the Universal Declaration by the American representative, Mrs. Eleanor Roosevelt, that document reflects the best in the American tradition.

The essence of the Universal Declaration is contained in its first Article: "All human beings are born free and equal in dignity and rights." This was the first time in history that the principle of human equality—defined by philosophers, preached by religious leaders, acknowledged by statement—had ever been defined in detail in an international document.

This concept of human equality, to be sure, had been proclaimed in many different national documents and international instruments. The League of Nations Covenant had provided for protection of the rights of minorities and of the inhabitants of the mandated territories. The peace treaties that concluded the two World Wars had protected the rights of peoples of the defeated nations. The Charter of the United Nations had specified human rights as a major concern of the Organization and had prohibited discrimination on grounds of "race, sex, language, or religion." The linking of human rights to peace and security is an essential element of the Charter.

As you know, the Universal Declaration of Human Rights is just that—a Declaration. It is a statement of standards and of goals toward which all mankind should be moving. Its thirty Articles set forth civil and political rights—like the right to vote and to hold office, freedom of speech and of assembly, freedom from arbitrary arrest and imprisonment, freedom of thought, conscience, and religion, and many others—that are familiar to us from our own heritage. Its thirty Articles also set forth economic, social and cultural rights—like the right to work, the right to education, the right to social security, the right to participate in cultural activities—that are equally familiar from legislation of modern times.

The Universal Declaration does not provide guarantees that these rights will be immediately fulfilled, nor does it impose legal obligations on any Government to provide all the rights. The Universal Declaration merely states that these are the accepted goals of the world community—equally valid in every country, including the United States, and in every city, including Indianapolis.

The Universal Declaration of Human Rights, embodying this principle of equality—of equal rights and equal opportunities—has already had an impact in international affairs. The constitutions of new states have embodied the provisions of the Universal Declaration, the courts of many countries have referred to the Universal Declaration, and the debates and resolutions of the United Nations have cited the Universal Declaration as their criterion of excellence.

In the twenty years that have passed since that historic vote at Paris, many different efforts have been made to codify and extend the Universal Declaration. Several additional declarations and some twenty-one international conventions have been adopted by the United Nations, the International Labor Organization, and UNESCO, in order to define the rights set forth in the Universal Declaration more precisely. These human rights conventions, all designed to codify certain groups of rights, are subject to ratification by each State.

Of these twenty-one conventions, only one has been approved by the Senate and ratified by the President—the Supplementary Slavery Convention. Six other conventions have been submitted to the Senate during the past two decades—Freedom of Association, Genocide, and Inter-American Convention on Political Rights of women, by President Truman; Abolition of Forced Labor and United Nations Convention on Political Rights of Women, by President Kennedy; and Employment Policy, by President Johnson. Twice in recent months President Johnson has urged the Senate to approve the human rights conventions.

May I suggest that you in Indianapolis study and discuss these human rights conventions and that you send your opinions about them, favorable or unfavorable or unfavorable, to the Senate Foreign Relations Committee and to the two Senators who represent your State. How else can the Senate know the views of the American people?

In addition to these efforts to codify human rights into international conventions, the United Nations has devoted enormous amounts of time and energy into action programs of different kinds. The Commission on Human Rights, its Subcommission on Discrimination and Minorities, and the Commission on the Status of Women have all sought to aid Member States in protecting and promoting human rights. They have studied the basic principles underlying human rights; they have examined the causes of violations of human rights; and they have looked for practical means to safeguard these rights. They have given special attention to racial discrimination, especially to its most virulent form, apartheid in South Africa.

To commemorate the Twentieth Anniversary of the Universal Declaration, the United Nations General Assembly has proclaimed 1968 as International Human Rights Year. The United Nations has called upon all its Members to celebrate Human Rights Year in their own countries and to take stock of their progress and lack of progress. The United Nations convened an International Conference on Human Rights, which is currently meeting at Tehran, to take stock of what has been accomplished in the past two decades and of what remains to be done.

The Chairman of the United States Delegation to the Tehran Conference is a distinguished Negro American, Mr. Roy Wilkins. In his opening address, Mr. Wilkins described with the utmost frankness what he called "the tortuous path by which the United States has corrected its past myopia about human rights, often by pain and once by a civil war." He concluded his description of "the tortuous path" with these moving words: "There is not the slightest doubt in my mind about my country's glittering future for all Americans—black men and white, Indians, Protestants, Catholics, Jews, nonbelievers. Such a statement is justified by the confidence that the President of the Nation, its courts system, and belatedly its National legislature, are fully committed towards this ideal—and the country will surely follow."

One of the many questions being discussed at the Tehran Conference is how best to deal with violations, and alleged violations, of human rights in some particular country. Obviously, the initial and best remedy is within the country itself; machinery must be available to enable every citizen, especially the poorest and weakest, to obtain justice. If that machinery is not available, however, what kind of international procedures might be instituted to enable the victim of injustice to obtain a hearing? There is no easy answer to this question, but an answer should be developed.

In response to the United Nations, President Johnson last October 11, the birthday of Mrs. Roosevelt, designated 1968 as Human Rights Year in this country; and on January 30, the birthday of President Franklin D. Roosevelt, he established a Commission for the Observance of Human Rights Year. The President appointed W. Averell Harriman, Ambassador at Large, as Chairman; and Mrs. Anna Roosevelt Halsted, daughter of two champions of human freedoms, as Vice Chairman. The members of the Commission include the heads of seven Government Departments and ten other distinguished citizens. They are charged, said the President, "with shaping the variety of our efforts into a major and purposeful national contribution." Their purpose is "to enlarge our people's understanding of the principles of human rights, as expressed in the Universal Declaration and the Constitution and in the laws of the United States."

The President's Commission has just begun its work, which will be designed to assist the efforts of the Federal Government, the State and Municipal Governments, and the many hundreds of civic organizations to celebrate Human Rights Year. One of the members of the Commission has said that the objective of the President's Commission, in effect, is to ensure that every American is aware of the existence and the significance of the Universal Declaration of Human Rights. That is, to be sure, a "tall order," as we say in the Middle West. It does not mean, of course, that every American should be able to recite and explain every Article in the Universal Declaration, any more than he can recite and explain each Article in our Bill of Rights. This means merely that every American should be aware that there is in existence a Universal Declaration of Human Rights, similar in purpose and content to our own Bill of Rights, though different in form and broader in scope.

To relate the Universal Declaration of Human Rights—and, indeed, or own Bill of Rights—to contemporary America is to confront the most difficult domestic issues of our times. Yet is not the basic concept clear? "All men are created equal," proclaimed our Declaration of Independence. "All human beings are born free and equal in dignity and rights," proclaims our Universal Declaration of Human Rights. Those ringing words of equality, those resounding phrases of justice, are indeed the only equitable, the only practical, approach to the issues that divide America today.

The National Advisory Commission on Civil Disorders, headed by the Governor of your neighboring State of Illinois, Otto Kerner, concluded that the basic issue underlying the unrest in our land and the riots in our cities is racial prejudice—White racial prejudice. The Commission stated this fact categorically: "Race prejudice has shaped our history decisively in the past; it now threatens to do so again. White racism is essentially responsible for the explosive mixture which has been accumulating in our cities since the end of World War II."

This race prejudice is based, as is all prejudice, on the idea that people who are different are, ipso facto, inferior. All discrimination—on grounds of "race, colour, sex, language, religion political or other opinion, national or social origin, property, birth or other status" in the words of the Universal Declaration—is based on this false concept. All discrimination is based on this scientifically untenable and morally unacceptable concept, that people who are different are inferior. Is not this the essence of discrimination? Is not this the essence of intolerance and hatred?

This age-old idea that one race is inferior to another, or more specifically, that all colored races are inferior to the white race, has been demolished once and for all by scientists—biologists, geneticists, anthropologists, and others. Groups of scientists convened by the United Nations Educational, Scientific, and Cultural Organization in 1951 and 1964 concluded that, in terms of biology, all men are truly created equal. Their findings were confirmed last year in a statement issued by eighteen experts brought together by UNESCO. This Statement on Race and Racial Prejudice should be read by every person who still questions whether there may not be some scientific evidence to justify discrimination. This is the conclusion of the UNESCO Statement: "Racism grossly falsifies the knowledge of human biology . . . The human problems arising from so-called 'race' relations are social in origin rather than biological."

In Human Rights Year, perhaps no single document is more significant than this simple Statement of the UNESCO experts—that no race or group is biologically superior to another. If every human being around the world would today acknowledge that every other person—Christian, Moslem, Jew, Buddhist, and Agnostic; black, white, brown and yellow; rich and poor; privileged and underprivileged—is his equal in dignity and rights, and if each were to recognize the obligation to respect the rights of the other, then we would be immeasurably nearer to stability at home and peace abroad.

This was the message of equality and mutual respect that was proclaimed to America and to the world, in words and in deeds, by Dr. Martin Luther King, Jr. This was the message that all who mourn his tragic death must remember and fulfill.

The danger, in this country and abroad, is that this idea of human equality, this concept of mutual respect of rights, this observance of the Golden Rule, which is an axiom common to all religious faiths, is not yet accepted. On the contrary, the old prejudices, the old historical intolerances, the old inherited hatreds, all work against the best that is in the human mind and the human heart. There is nothing natural, nothing normal, nothing eternal in these prejudices, these intolerances, these hatreds. They are not part of our biological being; but they are, alas, part of our cultural and social heritage.

Never has this tragic irony been more eloquently expressed than in Rodgers' and Hammerstein's *South Pacific*. The young American Lieutenant, Joseph Cable, exclaims about racial prejudice, "It's not born in you! It happens after you're born." Then he sings:

"You've got to be taught to hate and fear,
You've got to be taught from year to year,
It's got to be drummed in your dear little ear,
You've got to be taught.

"You've got to be taught to be afraid of people
Whose eyes are oddly made,
And people whose skin is a diff'rent shade,
You've got to be carefully taught.

"You've got to be taught before it's too late,
Before you are six or seven or eight,
To hate all the people your relatives hate,
You've got to be carefully taught!"

What is evidently needed in the world, in the nation, and in Indianapolis, is to reverse course and to "be carefully taught" *not* to "hate all the people your relatives hate," but to understand all those people and to respect them. Is not this the essence of human rights? The meaning of the Universal Declaration of Human Rights? Of the Declaration of Independence? Of the American Bill of Rights? Of the American Dream? Surely, it is the essence of the American Dream that all men are created equal, that all men enjoy equal rights and opportunities, and that they respect the right of all others to enjoy those same rights and opportunities. Surely, it is the essence of our heritage and the hope of our future that these goals can be achieved without hatred and without violence.

It would hardly be appropriate for me, a Foreign Service Officer speaking for the first time in Indianapolis, to advise you how to apply the principles set forth in the Universal Declaration of Human Rights to the local problems of your city. Having served over the past decade in three African countries and having visited many others, I can assure you that all countries in this world have their own particular problems of safeguarding and promoting the rights of their citizens. So far as our own own country is concerned, I can commend to your attention the pamphlet entitled "You in Human Rights," that was sponsored for Human Rights Year by the U.S. National Commission for UNESCO and the United Nations Association of the U.S.A., in cooperation with forty-five nongovernmental organizations. That pamphlet contains many useful suggestions promoting human rights in a local community.

This year, 1968, we Americans, in Indianapolis and throughout our country, commemorate Human Rights Year, the Twentieth Anniversary of the Universal Declaration of Human Rights. Perhaps we could do no better than to look inward upon our own consciences and upon our own attitudes. Once we accept the concept in our own minds and hearts, that all Americans are our equals—in the words of Mr. Wilkins, "black men and white, Indians, Protestants, and Catholics, Jews and non-believers"—then the hideous problems and imminent dangers confronting this country will be solvable. Once we regard the slum-dweller, the tenant farmer, the unemployed, the underprivileged, and the disinherited, as our equals, then we will treat them as our equals.

No one ever said this simple truth better than Mrs. Eleanor Roosevelt:

"Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any map of the world. Yet they are the world of the individual person: The neighborhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

SELF-HELP—THE SUCCESS OF NEGRO

Mr. PERCY. Mr. President, 6 years ago, Dr. Thomas Matthew, a prominent neurosurgeon, gave up a lucrative private practice to organize a massive self-help program in the slums of New York. Today Dr. Matthew is the head of the National Economic Growth and Reconstruction Organization, NEGRO.

Starting from almost nothing, and moving forward with capital and talent largely mobilized from within the black community, NEGRO now claims 600 employees, an annual payroll of over $1 million, and more than $3 million in assets. It runs the Interfaith Hospital in Queens, a chemical company, a textile company, a paint company; two large apartment buildings which it renovated; a clothing plant; and two buslines, one in New York and one in Watts, Los Angeles.

Dr. Matthew is as controversial as he is talented. But one does not have to agree with all of his outspoken opinions—and I do not—to appreciate the tremendous job he has done in promoting independence and dignity among the black people he serves. He has grasped the truth that the black man in America must work his way into the economic mainstream—owning his own homes, businesses, and institutions. This, in my opinion, is the great promise of responsible black power. It stands in sharp contrast to philosophies of wanton violence and of perpetual dependency.

Mr. President, the April 1968 issue of Ebony, published in my State of Illinois, contains a fascinating article on NEGRO, and Dr. Matthew. I regret that the many photographs accompanying this story cannot appear in the RECORD, but I ask unanimous consent that the text of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHARTS NEW PATH TO FREEDOM

(By Peter Bailey)

New thinking is shattering old concepts about the best ways to assure the survival of Black people in America. The old tactics of the civil rights movement stressed non-violent protest and legal action. Now many programs promote black self-help as a surer road to freedom.

Thus groups emphasizing this approach are springing up in communities across the country. Probably the best organized of such groups is the New York-based National Economic Growth and Reconstruction Organization (NEGRO), which is headed by Dr. Thomas W. Matthew, a neurosurgeon.

"The Negro people are looking for and are receptive to a self-help program," Dr. Matthew says, "because it offers them a lasting solution. Because the centuries of oppression have so gravely scarred the will for self-reliance . . . a very significant victory is needed on behalf of the concept of Negro self-help."

Now in its seventh year, NEGRO operated for several years as the Interfaith Health Association, a group founded by prominent businessmen, clergymen and physicians, including the late P. M. Savory, co-owner of the Harlem newspaper, The Amsterdam News; clergyman Gardner C. Taylor and sociologist Kenneth Clark. It was chartered in 1964 as a non-profit corporation with the aim of "developing of the self-help concept among the Negro people." NEGRO now employs more than 600 people, has an annual payroll of over $1 million, and has more than $3 million in assets, spokesmen say.

It owns and operates the following:

The Interfaith Hospital in Queens, New York. Acquired in 1963, it is a public service-type general hospital with 140 beds (there is room for expansion to 210 beds). The largest single business owned by Negroes in New York state, the hospital has been the experimental base for NEGRO's self-help program.

The Domco Chemical Co. in Jamaica, Long Island. Among the $700,000 in government and private contracts the company has is one for production of a disinfectant used in Vietnam for washing U.S. Army mess gear, fresh fruits and vegetables.

The Domco Textile Co., also in Jamaica, which makes most of the uniforms worn by NEGRO employes, and which has a $100,000 contract with singer Miriam Makeba for production of dresses for her Caribbean boutiques. A lingerie shop turns out stylish products, labeled "Free Fashions," which are sold in such New York department stores as Abraham & Straus, Alexander's and Mays.

A paint manufacturing plant which makes all paint used in buildings and the hospital that NEGRO owns.

Two 100-family apartment buildings in the Bronx, New York. Rehabilitation of the buildings was by NEGRO's Spartacus Construction Co.

A clothing manufacturing plant in Pittsburgh.

Two bus lines with 35 vehicles in Los Angeles' Watts section. Another bus line, Blue and White Bus Co., with 30 vehicles, is operated in Harlem and Jamaica, Long Island.

Always on the lookout for other acquisitions, NEGRO has adopted a guideline that a project must be not only economically sound but must fulfill a public need.

NEGRO's activities are financed by the sale of Economic Liberty Bonds offered in denominations ranging from 25¢ to $10,000. The bonds, which are sold on streets, by mail and through payroll deductions, mature in 10 years and pay "holiday interest" of 6½ percent annually between Thanksgiving and Christmas (and Hanukkah) celebrations. They are insured by NEGRO's $3 million in assets. The first bond program in 1965 raised $400,000, of which all but $5,000 has been repaid. A $2 million bond program begun last June has already raised more than $450,000.

Dr. Matthew, explaining the decision to use the bond system says: "It's a system that makes it absolutely impossible for any outside force to gain control of our policies. For once our bonds are bought, we can do what we want with the money as long as we keep up with our commitments. Outside forces can affect us only by buying or not buying the bonds."

Dr. Matthew, a much-honored neurosurgeon who gave up a $100,000-a-year practice to run NEGRO, says the organization has two major purposes—"the building of a people and the completing of the emancipation from slavery." He explains: "The primary function of NEGRO is to be a developing agency. It develops industry as well as social programs, particularly wherever there are groups of Negro people. We build ourselves not by attracting another Black man because he hates an enemy, but we attract him by being relevant to him and his survival." Operating a program which admits its "big brother" nature, the doctor believes that Black people must break up the "dependency complex" with which their experiences in this country have burdened them. The building of this complex, in the doctor's opinion, was the result of a deliberate policy based on American economic need for a large reservoir of cheap labor. Though now the need is not so great, the "dependency complex" is still maintained by the country's welfare system—all of which leaves the Black man "with little, if any, belief in his own capabilities." Dr. Matthew believes that this complex must be destroyed before Black people can be truly free.

So wary is the doctor about NEGRO acceptance of "handouts and paternalistic charity," as he refers to most of the existing programs aimed at the Black community, that when asked if the organization would accept a million dollar grant from the Ford Foundation, he replies: "We would not accept such a grant! We would not accept it because even the offering of such a grant would mean that they are not listening to

or understanding the needs of the Negro people. Rather than offering a million dollar grant, they could buy a million dollars worth of our bonds."

Behind NEGRO's philosophy is a commitment to those Black people who have been completely left out of the affluent society. Says Dr. Matthew: "We are concerned with building the economic strength of our people. Our programs are geared toward improving the standard of living of the masses of Black people, not just the 'talented tenth.' All of our thrust is in that direction, so you will find that we are not as smooth as we would be if we took only the highly skilled." Dr. Matthew feels that "Black people must build up financial resources which belong to them as a whole and not to any specific person or group of persons." NEGRO, he says, has discussed the possibility of setting up "a National Negro Fund, which will be the treasury of 'the Negro nation'—our Fort Knox. With these funds we will be able to help the people who have hang-ups—people who need work, yet who won't be hired by this society's regular sources of employment. We recognize the importance of the dignity of working for a living."

For Dr. Matthew, the success of NEGRO represents another in a list of solid achievements which have marked his growth as a student, a neurosurgeon and a Black leader. He was born 43 years ago in New York City where his father was a janitor in an all-white apartment building. One of nine children, all of whom are now professionals, he says: "When I was growing up, I wanted to be one of three things: a lawyer, a science teacher or a clergyman. I ended up combining them all."

From the Bronx High School of Science through specialty training in neurology and neurosurgery at the Harvard Medical Center, Thomas W. Matthew received dozens of academic honors. He was the first Black graduate of both the Bronx High School of Science and Manhattan College. At Meharry Medical College he was on the Dean's List each year as an honor student. He was the first Black man to be trained as a neurosurgeon in the U.S. and the first Black man to serve as director of service at a major hospital outside the Harlem community. He has been an instructor at the Albert Einstein Medical College and clinical instructor at Harvard and Boston University medical schools. He has been a staff neurosurgeon at several top hospitals, and is currently a consultant neurosurgeon at four New York City hospitals and for the New York State Boxing Commission.

Always actively involved in the human rights struggle, Dr. Matthew was president of the Bronx Youth Division of the NAACP when he was a teen-ager. Today, he refuses to join the American Medical Assn. because there is segregation in some AMA local chapters.

Completely dedicated to the self-help approach, the mild-looking physician can be a formidable foe when confronted by what he feels is an unreasonable attack. On one occasion Flushing Savings and Loan Assn. found that out when they tried to take possession of the Interfaith Hospital for non-payment of rent. Overnight Dr. Matthew became a "nitty gritty" combatant, directing his aides and nurses to barricade the hospital and block the entrance for city marshals. He told his staff: "If you see marshals or policemen coming, don't let them in—call me." During the stalemate Dr. Matthew and his opponents negotiated a compromise. Only then, after a settlement, was the barricade (a chicken wire fence reinforced by white baby cribs) removed. At other times, city building inspectors have been refused entry into NEGRO buildings while rehabilitation was in progress. "We will let them in when we are finished," said Dr. Matthew.

At the moment, Dr. Matthew is embroiled in a struggle with New York City about enfranchisement of NEGRO's buses. Because of an injunction, the buses are not able to run on a regular schedule; instead they make gypsy-like trips through Harlem and Queens, picking up passengers where they find them and taking them where they want to go. "We are fighting the injunction," says Dr. Matthew, "but if things haven't been settled by the time the weather gets warm, we are going to run our buses in Harlem and Jamaica on regular schedules and dare the city to stop us."

Dr. Matthew has strong beliefs on many things affecting the future of Black people in America: especially civil rights. "The civil rights movement will eventually fail," he predicts. "It has to fail because it only asks for equal opportunity. But if the Black man has only 'equal opportunity' he won't be able to compete with non-Negroes for they will have the advantage of the support of their group. It will be the individual Negro against another group. Until the Negro has a strong group as a backup, his equal opportunity is meaningless, and 'equal opportunity' is the most that 'civil rights' can bring to the Black man. Our people's need transcends civil rights. If forced to make a choice, I'd give up civil rights for economic freedom."

On Black Americans: "I believe that we are a distinct people—distinct from Africans, distinct from other Americans, distinct from any other people on earth. I have always accepted the fact that we are a nation within a nation; a people with similarities based on our experiences in this country which bind us together, these similarities being both cultural and biological."

On Black Power: "White America can save Black Power and it is in white America's interest to do so. The Black Power worthy of saving is the only power NEGRO seeks: the power of self-help. The alternative to white America joining NEGRO in its struggle to bring the Negro people into the mainstream of American life is the Black Power of defeat. Those whose cries and even whose names frighten white America are shouting Black Power because it is the only power left to them."

On Laws and Lawlessness: "There are two kinds of laws in a society: laws of necessity which bind man to man and without which society would fall into chaos, and laws of convenience, which are laws that serve special interest groups because they have, in one form or another, enough power to bring those laws into existence. These laws are not vital to society's survival and society would not collapse without them. When the interests of my group demands that I break the majority group's laws of convenience, then I become the lawless. Laws of convenience are inherently discriminatory against the interests of Black people. When I break them I must be prepared to pay the penalty, though at times whether or not you pay the penalty depends upon your strength."

On Riots: "Riots are epidemics of erupting boils. Medically, pain and fever trigger natural responses, and under proper professional care, additional drugs and treatment defeat disease. It is only when pain and fever are masked by the palliative of aspirin that boils erupt on the human body. Similarly, the palliatives of civil rights bills, token integration, and an ineffective war on poverty have brought to the surface of American life the erupting boils we call riots. Riots are not caused by viciousness; they are triggered by viciousness. I can't see our people completely giving up the concept of riots. Riots can be an important strategy for our people."

On Negro Leaders: "Our leaders have tried too long to make the Negro look more principled than any other group. We have no obligation to do this. It is a kind of backhanded racism for any Black leader to assume that we are going to be any more principled than any other people. We are the only group being called upon to fulfill the Christian-Judaism Ethic in pure, absolute form. Our leaders must also learn not to talk out of emotion, but out of sheer cold, factual, rational calculation."

On Malcolm X: "I knew Malcolm very well and often discussed things with him. Malcolm's great fault was that he never had a program. But I do feel he was the foremost spokesman our people have had to state the indictment of the oppression which we have experienced."

On Stokely Carmichael and Rap Brown: "Stokely and Rap are symbols of the racial problems in this country. They are spurs in the saddle. They are serving the important role of being catalysts. If the time comes when we no longer need this spur, the Negro people will put them down."

On the Guaranteed Income: "Negroes have known about guaranteed annual income since we first came to this country. Our grandparents had a guaranteed annual income; they called it slavery. . . . The civil rights leader, the white sociologist, the liberal economist all mean us well, but fate plays a cruel joke on us all. The guaranteed annual income they seek for us would doom us, as it has the American Indian who stayed on the reservation to an ever lower level of existence. The cruelty lies in the fact that this 'hope' they offer is but an empty dream. The Congress is not going to pass a guaranteed annual income and every informed observer and politician knows it."

CRISIS ON THE CAMPUS

Mr. McGEE. Mr. President, before coming to the Senate, I taught in several American universities. Thus, my interest in and my concern with the disturbances which have, of late, hit a number of college and university campuses in this land is great. In what promises to be an elucidating series of editorials, the Washington Post has, today, commented upon the crisis on the campus. The Post has made it clear that this is a revolutionary development, out of step with American traditions. It is more, for, as the editorial states, to these revolutionaries, "success is the destruction of American education."

Mr. President, I ask unanimous consent to have inserted in the RECORD at this point the lead editorial from today's Washington Post on the crisis on the campus.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CRISIS ON THE CAMPUS—I

The wave of disturbances that has swept university and college campuses in the last few months ought to be deeply troubling to all Americans. It tells us that something is seriously wrong—with the students, with the educational institutions, or both—and that this something is far more serious than the disputes over the war in Vietnam or the civil rights problems that seem to trigger the disturbances. That something has two parts. One is that a small group of students are so disillusioned with the United States that they want to destroy the existing institutions although they have nothing to offer in their place. The other is that a far larger number of students are so unhappy with particular aspects of society or of education that they are willing (or naive enough) to join the game.

This view of the rebel leaders received substantial support last week from two different perspectives. David B. Truman, vice-president of Columbia University, told Newsweek magazine, ". . . It's perfectly clear from what (the rebels) do and say and what they write that they regard the universities as the soft spot in a society that they're trying to bring down." Two students, involved on the side

opposing Dr. Truman at Columbia, wrote in *The New Republic* that the decision "to take physical control of a major American university this spring" was made months ago at a conference of the Students for a Democratic Society. Columbia was chosen because it was an Ivy League school, had a liberal reputation, and was situated in New York. Claiming that the demands made by the demonstrators were tailored to fit Columbia after the decision to seize it was made, the two students explain:

"The point of the game was power. And in the broadest sense, to the most radical members of the SDS Steering Committee, Columbia itself was not the issue. It was revolution, and if it could be shown that a great university could literally be taken over in a matter of days by a well organized group of students then no university was safe. Everywhere the purpose was to destroy institutions of the American Establishment, in the hope that out of the chaos a better America would emerge."

Anyone who has spent much time talking with the leaders of student rebellions has a feeling these views are accurate. The rebels are out of touch with and do not understand the principles of democracy. Their heroes are the modern revolutionaries and the language they talk is that of anarchy. Freedom of speech means nothing to them except insofar as it protects their freedom to speak. The idea that differences are resolved through discussion and reason is irrelevant to them. The only thing that counts in their lexicon is power and the only way they believe power should be used is to enforce their beliefs on others. They have no doubts about the rightness and the righteousness of their views and they refuse to entertain any suggestion that they may be wrong. The historical parallels to this set of mind are only too easy to draw. It is sufficient to say that it is totally at war with everything this country has ever stood for.

It is now clear, for example, that the rebel leaders at Columbia never had any intention of negotiating a truce. They wanted what they got, forcible removal by the police, not to win their argument with the Administration but to solidify their following. Thus, the more violent the police action, the better it fits the rebels' purpose.

Confronted with this kind of mentality among leaders of student demonstrations, a university administration has little choice. It cannot tolerate students who seize offices and classrooms, hold administrators and faculty members prisoners, and rifle files and private papers. Even in their dream world, the hard-core revolutionaries on the campuses must know that a revolutionary who fails must take the consequences. And they must not succeed, for to them success is the destruction of American education.

IN 120 MAJOR CITIES 80 PERCENT OF GUN KILLERS HAD CRIMINAL RECORDS

Mr. FONG. Mr. President, gun interests argue that strong firearms laws would not affect the Nation's high murder rate, since most murders are committed, not in the commission of a crime, but on impulse. They cite the fact that the murder victim is usually a member of the family or a friend as proof of this.

These facts have indeed shown to be true by recent studies of the Judiciary Subcommittee on Juvenile Delinquency, of which I am a member.

But these studies also have shown, rather conclusively, I think, that if a strong gun control law had been in effect, a large majority of the killers would not have been able to buy guns.

In one study, a detailed case analysis of 125 murderers in the District of Columbia during fiscal 1966–67, it was found that 60 percent of the gun killers had been arrested for a crime of violence before he murdered another person.

A second study, a nationwide survey of 120 major cities, revealed the fact that the gun killer had a prior criminal record in 80 percent of the cases.

Clearly then, it was not the normal family man turned suddenly into an impulse killer who was responsible for the great bulk of the murders committed; rather, it was the known criminal who was responsible for most of the killings.

Mr. President, facts such as these showing the relationship between firearms and crime are now beginning to be publicized, to offset the massive letter-writing and publicity campaign mounted by the gun lobby.

An example of this is contained in the May 12, 1968—Mother's Day—issue of This Week magazine, a Sunday supplement having a circulation of more than 13 million.

A featured article entitled "How To Spot a Potential Killer," written by Frances Spatz Leighton, examines the case histories of gun murderers.

I believe this information has direct bearing on the debate now taking place in the Senate concerning title IV of the omnibus crime bill, S. 917.

Title IV—which I cosponsored as S. 1, amendment No. 90—would place effective workable controls over the interstate commerce in firearms to criminals, juveniles, and the demented. It is the gun law sought by almost 100 percent of America's law-enforcement community.

I ask unanimous consent that a document entitled "Profile of a Killer, Washington, D.C., July 1966 to June 1967," prepared by the Senate Juvenile Delinquency Subcommittee and the article written by Miss Leighton, published in This Week magazine, be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

PROFILE OF A KILLER: WASHINGTON, D.C., JULY 1966 TO JUNE 1967 [1]

The Washington, D.C. killer uses a handgun.

The victim is his friend, his wife, or his girlfriend.

He has been arrested previously six times, twice for serious crimes, including once for a crime of violence.

The gun killer is usually a man, 34 years old, and the murder occurs usually after a fight on Saturday night after the victim and the killer have been drinking.

The killer uses a foreign-made handgun available in a nearby store or through the mail for about $14.00.

80% of the killers who used a gun had a prior criminal record.

78% of all murderers studied had criminal records.

The gun killer had an average of 6 prior arrests before his first murder, 2 of them for serious offenses.

60% of the gun killers had been arrested for a crime of violence before the murder indictment.

In 81% of the cases the defendant and the victim were either friends, relatives, acquaintances, husband and wife, or common law cohabitators.

86% [2] of the murders stemmed directly from an argument, an altercation or a lovers quarrel.

[From This Week magazine, May 12, 1968]

PORTRAIT OF A KILLER

(By Frances Spatz Leighton)

The man is in his early 30s. He lives in your neighborhood, maybe in your apartment house. He looks and acts about like anyone else, maybe a little more hotheaded. He's been in trouble a few times but nothing like what is coming up next. Because he is going to commit the ultimate crime of pasion—*murder*.

What will set him off? Almost anything. In Chicago, it was an argument over a bowl of chili. In Cincinnati, it was a heated dispute over who was better in—would you believe?—karate. In Atlanta, it was because a man "wanted to get some sleep" and a guest—who happened to be his wife's former husband—ignored his request to leave the house. In Minneapolis, it was a squabble over a parking space.

These cases may *seem* different, but all have something in common—the kind of person pulling the trigger. And thanks to a Senate Judiciary Subcommittee, we now have a profile of the average person who becomes a murderer. Aghast that the U.S. murder rate was up 12 per cent in 1967 and up 50 per cent from 1957—33 Americans were murdered *each day* last year, nearly two out of three with guns—Sen. Thomas J. Dodd's Subcommittee to Investigate Juvenile Delinquency launched a study in 130 American cities to find out just whose is the hand on the gun.

Based on the first 80 major cities studied, the picture emerges and it is a shocking one. The amazing thing is, the subcommittee found, that it is not the holdup man—not someone who comes out of the blue—who kills you.

It's someone you know.

WHEN DO THE MOST MURDERS TAKE PLACE?

He's usually a man, about 34 years old. The time is most often a Saturday night, and somewhere in the picture are a few friendly drinks.

There's usually another person in the picture, too, a friend or acquaintance, a wife or a girl friend. The gun—the average killer prefers a gun to any other weapon more than half the time—is foreign-made and purchased without any trouble in a nearby store or through the mail for about $14.

Now about that little trouble he had before—the subcommittee found that 80 per cent of the killers who used a gun had criminal records—in fact, had an average of *six* arrests over a 10-year period, *prior* to the murder.

In 74 per cent of the cases the killer and the victim were either friends, relatives, acquaintances, husband and wife, or common-law cohabitators. Surprisingly, in comparison, only 13 per cent of murders take place in the course of a crime.

Eighty-four per cent of the murders stemmed directly from an argument or a lover's quarrel. It's usually a man who pulls the trigger but, in Philadelphia, a 32-year-old spinster, told to stay out of sight while her sister and brother-in-law were visiting because she invariably fought with her sister, went to her father's room, got his gun and shot her brother-in-law.

[1] The Subcommittee to Investigate Juvenile Delinquency is studying the backgrounds of America's murderers. One hundred and thirty (130) major population centers of the United States, are included in the survey, which is not yet complete.

[2] The results of a pilot study of all persons indicted for murder in the District of Columbia between July 1966 and June 1967 are consistent with the figures received to date from 80 major cities. This profile is based on the District findings.

MOST KILLERS ALREADY HAVE A GUN HANDY

Surprisingly, the subcommittee discovered that the average person who commits murder in the U.S. didn't go out and buy a gun for the job. The gun was already handy. The "chili" man, though he'd been in trouble over drunkenness and bad checks, had been allowed to carry a .32 caliber revolver. Although the woman who shot her brother-in-law had been treated for emotional problems, there was a gun right there when she wanted one.

The fact is, in any state except New Jersey or Illinois, you can get all the rifles and shotguns you want, no questions asked, no waiting period—any 10-year-old kid can get one. And only one state—New York—requires a license for possession of a gun on one's own premises.

Meanwhile, the "long hot summer" is already upon us—it started in Memphis. Carl Perian, staff director of the Senate subcommittee, told THIS WEEK: "People have told our committee they are buying guns for home protection. This is deplorable. In Detroit last year, snipers, most with long criminal records, armed themselves in advance under the existing firearms laws and turned a minor disturbance into a six-day holocaust. Thirty-two persons were shot by known snipers, five died, and 36 additional innocent people were shot by persons unknown, six fatally."

"It is shocking," Senator Dodd says, "to compare the battle in our streets to the battlefields in Vietnam. Since 1961, over 20,000 of our troops have been killed. But the slaughter in the streets has been three times as great."

And the next flare-up could start with that quick-tempered, but otherwise quite ordinary, 34-year-old man next door!

TRIBUTE TO THE LATE JOSEPH W. MARTIN, JR.

Mr. MURPHY. Mr. President, when historians of the next millennium look back with the wisdom of their hindsight to study the vibrant period in which we live, they will find ample evidence that there were among us a select few men whose vision and deeds matched the ever-expanding challenges around us.

Such a man was the late Joseph W. Martin, Jr., whose public service over a period of more than half a century gave new meaning and strength to the word "statesmanship."

To those of us who knew and worked with him, he was truly "Mr. Republican," and we learned from being exposed to his political philosophy that the foundations of responsible partisanship must be courage, principle, and patriotism.

During his service in the House of Representatives, no major congressional effort failed to carry marks of his wisdom and legislative craftsmanship.

No State has failed to reap the rewards of his vision and labor.

No person today can live from dawn to dusk untouched by the benefits of those social programs and public works projects which surround us as living monuments to his interest in the undertakings which have made possible the enormous progress during the past 50 years.

More significantly, however, our Nation's generations of the future will find that through Joe Martin and a few other patriots of his rare breed, the spirit of our forefathers which he espoused and exemplified so completely has been transmitted to them untainted and undiminished.

This is his epitaph and his legacy.

It must and will endure.

THE STEEL TRADE DEFICIT

Mr. BAYH. Mr. President, my colleague and good friend, the senior Senator from Indiana [Mr. HARTKE], has written an important article in which he reviews the effects and implications of the steel trade deficit. As Senator HARTKE points out, rising steel imports seem now to indicate that they will reach a total of 15 million tons this year, which would be an increase of about one-third over the level for 1967.

Senator HARTKE has been a longtime advocate of an international conference in which the major steel producing nations could jointly look at this problem and search for answers. One of the significant factors which he emphasizes is the fact that some 42 percent of the steel producing capacity is actually owned by government and not private companies.

Mr. President, I ask unanimous consent that the article by Senator HARTKE, published in Indiana Business and Industry for April 1968, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SERIOUS EFFECTS OF THE STEEL TRADE DEFICIT

(By Senator VANCE HARTKE, of Indiana)

The United States cannot maintain its high employment, industrial output and concurrently its high living standards if we accept unlimited imports under unfair competitive conditions. To do so will inevitably weaken the nation's entire industrial fabric.

The 1967 trade deficit in steel mill products was $877 million. This year, the steel trade lag may reach $1.3 billion. While partially due to strike-hedge buying, this is nevertheless in line with the long term trend.

With continuance of the present trend in 1968, imports will amount to 15 million tons—up to 15% of domestic consumption—or a total import increase of one-third over last year.

What are the national implications of this rapidly rising steel trade deficit? It is apparent there are no offsetting factors in the overall trade account in the making. Therefore, the steel trade deficit will have a serious impact on our 1968 balance of payments.

I am not asking whether something must be done to limit steel imports both for balance of payments reasons and the national security. Something has to be done and eventually will be done. Government action will occur. The real question is at what level of steel imports will government action take place? If we wait until the national concern is apparent to everyone, it may be too late then to redress the long-term impact on our balance of payments of a steel trade account seriously out of balance. A ratio of steel imports to consumption of 20 per cent or 30 per cent may permanently impair the ability of the steel industry to respond to a rapid increase in both military and supporting civilian requirements during the time of national emergency.

The 523-page Senate Finance Committee study of world wide steel competition was 18 months in the making, following my steel import hearings of June, 1966. Its principal point is that a continued rise in steel imports weakening the domestic steel industry would confront the United States with a "possible national ordeal."

What do we mean by "national ordeal?" Let me make it clear that America's defense is dependent upon preventing subsidized, below-cost foreign steel production from eroding our capability of fulfilling emergency demands in this country.

I agree with the Finance Committee Steel Report that "no private enterprise industry can, in the long run, survive in competition with foreign industries that have become 'instruments of government,' unless its own government lends assistance against subsidized import and against obstacles to exports."

In October of 1967, I introduced an orderly marketing bill that would set up a system of quotas on imports of steel mill products and pig iron. The report suggested that "some responsible, short-term measure along these lines may be the prod needed to cause the steel producing nations of the world to join together in an effort to solve problems of world steel in a manner calculated to serve the best interests of all of them."

"The arguments against Government intervention to provide protection for the domestic industry are persuasive in the abstract," the report stated. "The goals of keeping political alliances, maintaining price stability, and pursuing a consistent trade policy that upholds the principle of comparative advantage are all worthwhile and important. The real question is, however, at what point can a nation afford to allow one of its vital industries to undergo a serious decay because of imports? The United States, perhaps, could well afford to import 10 per cent of its domestic consumption of steel. But would it be in the national interest to import 15, 20, 30, or even 50 per cent? It is the trend which must be of concern, and a judicial decision will have to be made at some point as how much the nation can depend on imports of steel to meet domestic civilian and defense needs."

World excess steel capacity is a basic problem in world competition. This has caused foreign steel industries to unload their surplus production on the U.S. market at prices at or below cost.

"In some countries," the report states, "they (foreign producers) have been abetted by governments through the remission of taxes and through subsidies. In contrast, the U.S. steel industry has been unable to maintain its exports, in part because of a multitude of non-tariff barriers encountered abroad, and of the lack of U.S. export incentives."

The report termed the steel industry as "less dynamic than some other industries" in reacting to shifting trends and said that its research and development expenditures as a percentage of sales were among the lowest of 19 major industries.

But it added that the domestic producers face "no insurmountable problem except for the prospect that continually rising imports from lower cost or subsidized producers abroad could seriously weaken their market position."

The study contended that "it would be unrealistic to expect an uninterrupted flow of imports when this country might most need them: that is, in case of a major national emergency," and went on to say that steel imports could be interrupted even in peace time. "Japan might choose to export only to its Asiatic neighbors and Western Europe may concentrate on supplying Eastern Europe. It means courting a possible future national ordeal if such a highly strategic industry as steel would be permitted to drift into even partial decay."

Aside from defense, the viability of the domestic steel industry is a problem of national welfare. Steel is still the backbone of any industrialized economy. In the United States, it still accounts for 95% of the weight of all metals and the bulk of all processed materials used in manufacturing. If in certain product-lines imports exceed, say, 60%

of domestic consumption, domestic facilities might be scrapped, and labor shifted to other industries. Any cessation of imports at that stage, for whatever reason, would constitute a major problem to uninterrupted output of the steel-consuming civilian economy.

I have long recommended a world steel conference of the governments of major steel-producing nations as a means of attacking the problem of overcapacity. Such a conference would discuss common interests in adjusting the pace of steel expansion to the pace of world steel demand, and the chances of its success would be greatly enhanced if the sympathetic interest of the U.S. Government in safeguarding the industry is recognized by the countries now enjoying a market for their steel exports to this country.

Fairer rules in international steel trade are urgently needed to overcome the domestic industry's disadvantages in competing in the face of foreign export subsidies and nontariff barriers, and if fairer rules are achieved, the domestic industry should be able to expand both its domestic and foreign markets.

The problem has been aggravated by trade and taxation policies, by other countries, aimed at subsidizing production and exports while restricting imports.

Unfortunately, however, foreign steel industries have thrown steel on the world market, especially the largest and least restricted by nontariff barriers, i.e., the U.S. market.

There is nothing to indicate that world demand for steel will soon catch up with still-rising capacity. A 1967 estimate by the European Coal and Steel Community states that between 1966 and 1970 world steel capacity would grow by some 33 million tons a year to a total of 738 million tons by 1970, a figure substantially exceeding foreseeable world demand.

There is, therefore, reason to fear that foreign steel industries will not act prudently and adjust output and prices to levels permitting a reasonable return on sales and investment. The concern is that foreign producers, facing further deterioration of their financial status, will continue to sell increasing quantities of steel in the United States at prices which do not reflect their full direct and indirect cost, with the collaboration of their respective governments.

I must emphasize that 42% of world steel capacity is government-owned. Of "Free World" steelmaking capacity, not including the United States, 28% is government-owned.

Moreover, cartel-like association and subsidies are already at work and full or partial government ownership or control may lurk at the end of the road for many foreign steel industries, as a result of their recent financial difficulties.

Documenting the post-World War II performance of the leading steel making nations, we must recognize that United States production dropped from 61% of world output in 1945 to 26% in 1966 and will probably drop to 21% in 1975. Between 1947 and 1966 Japan's share of world steel output increased tenfold. In the same period, Italy's tripled, and Russia's doubled. Red China produced more steel in 1966 than any country had in 1947, except for the United States and Russia.

The signs are there for any who wish to read them.

THE TENANT CONDOMINIUM

Mr. PERCY. Mr. President, in the past year interest has increased greatly in expanding the opportunities for lower income families to become owners of their own homes or apartments. Typical of that interest is an article published in the February 1968 issue of Cornell Law Review. It is entitled "A Draft Program of Housing Reform: The Tenant Condominium," and it was written by Mr. William J. Quirk, general counsel of the New York City Department of Buildings; Mr. Leon E. Wein, assistant counsel for the department; and Mr. Ira Gomber, a third-year student at New York University Law School.

The article proposes a new program, drawn from New York City's experience in housing, to enable lower income families to become owners of their own condominium apartment units. The cost estimates presented hold forth the possibility that urban families having incomes as low as $3,500 can become homeowners, even without new legislation.

I note with some interest that section 10 of the article dissects the criticisms of Secretary Weaver with regard to S. 1592, the National Home Ownership Foundation Act, which I had the privilege to cosponsor with 39 other Senators and 112 Members of the other body. The authors find the Secretary's figures grossly overstated, something I strongly suspected at the time they appeared.

The authors conclude that a lower income condominium program could even be effectuated without any new legislation, such as S. 1592. I should point out, however, that they assume certain governmental actions which would bridge the gaps to which S. 1592 was directed. They assume that FNMA would be willing to buy condominium mortgages, thus providing the capital not hitherto forthcoming from private lenders. This, of course, is little more than direct Government lending through the FNMA special assistance program. S. 1592 would have dealt with the same problem by having the National Home Ownership Foundation issue bonds bearing the guarantee of the Federal Government. The Foundation's authorized $2 billion in debentures would have compared quite favorably with the $1 billion Congress authorized for FNMA in 1966.

Assuming the authors' cost figures to be accurate—and there may be some debate on that point—the fact remains that to lower the income levels to be served, some form of Government subsidy would be necessary. That provision, originally presented in S. 1592, is now incorporated in the new omnibus housing bill of 1968 unanimously voted out of the Senate Banking and Currency Committee and that will be considered by the Senate very shortly. The authors also pass over rather quickly the problem of equipping the nonprofit sponsor or tenant group to manage a complicated housing program. S. 1592 had provisions for substantial technical assistance to nonprofit sponsors to meet this need, a provision incorporated as section 106 of S. 3029.

But having made these observations, I wish to compliment the three authors for their timely article. I hope they may find a way to put their thesis to the test very shortly.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DRAFT PROGRAM OF HOUSING REFORM—THE TENANT CONDOMINIUM

(By William J. Quirk,† Leon E. Wein,‡ and Ira Gomberg *)

Few dispute that the two central problems of America's cities are the pervasive hopelessness of the slums and the flight of the middle class to the suburbs. The resulting cities lack balance and diversity.[1] Only the very rich and the very poor remain, each in their separate sectors. The tax base is distorted, and in order to provide sufficient revenue the more regressive forms of taxation are used.[2] If our cities are to be saved, vast reforms must be effected, particularly in the area of housing.

The primary mode of housing in the larger cities is tenancy in a multiple dwelling.[3] In the slums, where the need for housing reform is greatest, the renting of apartments is almost universal. Thus, the raw material of any housing reform is the landlord-tenant relationship. The past twenty-five years have witnessed major improvements in our housing standards. Legal machinery has developed to force landlords to keep their buildings in repair.[4] We are increasingly told, however, that rigorous enforcement of housing codes will cause owners to abandon their buildings and that the city will be obliged to become the landlord of a "great mass of uneconomical, deteriorated buildings."[5]

But there is some basis for optimism. First, housing reform need not presuppose continuance of the landlord-tenant relationship. Indeed, a housing reform program that encourages tenants to become the *owners* of their apartments will tend to eliminate many of the sources of the social blight that plagues our cities. Second, and most surprising, the transformation of low- and middle-income tenants[6] into owners of rehabilitated or new apartments is presently practicable and requires *no new legislation*. The housing program herein proposed has the following features:

(*1*) Gradual obsolescense of landlords, both private and public;

(*2*) Creation of real property interests in former tenants;

(*3*) Monthly payments within the reach of low- and middle-income families;

(*4*) Radical rehabilitation and new construction;

(*5*) Maintenance of the individual character of existing neighborhoods;

(*6*) Absence of governmental intervention;

(*7*) Avoidance of governmental subsidies, except for very low income families; and

(*8*) Maintenance, and perhaps improvement, of the tax base.

The proposed program will be within the cost range of the existing rent structure. In 1960 the median monthly rent in New York City was $73.00.[7] Based on a high estimate of $12,000 per unit for the costs of acquisition and rehabilitation,[8] monthly amortization payments by the unit owner would be $62.49.[9] His total monthly payments, including maintenance,[10] insurance, and taxes, would be $87.49. Based on a more reasonable estimate of $7,500 per unit, monthly amortization payments would be $39.06, yielding a total monthly payment of $64.06.

These figures do not include any governmental subsidy. For persons at poverty levels—about fifteen to twenty percent of the population [11]—some subsidy will be necessary; for other groups it may be desirable. As will be discussed, an interest subsidy is the most flexible and cheapest type of governmental aid.[12] Where there is no subsidy, of course, income restrictions upon eligible occupants are unnecessary.

I. THE HOMEOWNERSHIP PRINCIPLE

Our tenements, once a haven for immigrant Jews, Italians, and Irish, now house

Footnotes at end of article.

the impoverished internal migrants, mostly Negroes, and the failures of earlier immigrations. In past generations immigrants were able to assimilate themselves into this country's opportunity systems; but the volatile slums of today are characterized neither by opportunities nor by a culture of aspiration. Bringing quality housing within the means of slum dwellers is a prerequisite to any solution to the problem of urban unrest.

Our tenements contain both very large families that are not eligible for public housing and families that have been evicted from publicly assisted housing for antisocial behavior. Many slum dwellers, recently arrived in the city, have not yet adapted to the demands of urban living; others, despite prolonged residence in the slum, are unable or unwilling to do so. Slum tenants have no sense of pride in their homes, no sense of belonging to the community. Antagonism towards landlords, public or private, is one of the roots of urban unrest.

Many tenement landlords mulct their buildings and abandon them. Slum tenants frequently remove copper pipe, bathroom fixtures, or anything else of value. Indiscriminate vandalism makes maintenance and repair difficult. Thus, landlords seek profits in an atmosphere that does not promise increased return from improvements; and vandals, having no substantial interest in their community, often seek gain through pillage.

Homeownership, on the other hand, offers opportunities for personal dignity, self-reliance, and stability. It gives the owner a long-term interest both in the building and in the community. Ownership by residents would help discourage the social disintegration that marks our slums, and the resulting sense of responsibility and aspiration could replace the pervasive hopelessness.

Housing reform must deal with the needs of people, not just the construction of pleasant buildings. In his world-wide study of housing, Charles Abrams observed: "To the poorer family, homeownership is a prime hope, representing not only shelter but lifelong security. The emotions underlying the homeownership structure may or may not be based on reality, but they are powerful enough to win respect." [13]

In the United States the statement seems true of middle-income families as well. In light of the general desire to own a home and the social interests stimulated by resident ownership, truly significant housing reform must be based on the homeownership principle.

Besides offering improved housing at realistic prices, the proposed program offers a stake in society to the low-income family. It also provides middle-income groups with a permanent stake in the city, and improved living conditions throughout the city may eventually make the flight to the suburbs unnecessary.[14] For both groups the advantages offered are the pride of ownership, the building up of equity, tax benefits accruing from ownership treatment,[15] and the availability of a choice not now offered.

Most significantly, the program will place a check on the increasing power of the government. The creation of a property interest in the individual will act as a buffer against the state.[16] No new government machinery need be created, and even slum dwellers will be able to have a permanent property interest of their own.

II. VEHICLE OF TENANT OWNERSHIP

A unique characteristic of New York City is the high percentage of people living in multiple dwellings. Presently about seventy-three percent of the population lives in dwellings containing three or more units.[17] Fifty-five percent of all rental units are in structures with twenty or more apartments.[18] This accounts for almost half of the nation's total housing inventory in such structures.[19] Because of land shortage, other urban areas are likely to develop similar high-rise apartment living in the future.[20] The two basic formulas for homeownership in multiple dwellings are: (*1*) the stock cooperative and (*2*) the condominium.

The stock cooperative is a corporation that holds title to the land and building. Each tenant-shareholder owns stock in the corporation and has a "proprietary" lease covering his apartment. The corporation is the mortgagor of the premises and is directly responsible for paying real property taxes assessed against it. Each tenant-shareholder makes monthly payments to the corporation according to the provisions of his proprietary lease. These payments cover maintenance costs, management expenses, and other miscellaneous expenses, in addition to the mortgage and tax obligations.

Since foreclosure of the mortgage would result in loss of the shareholders' investment, the tenant-shareholders are highly dependent on their mutual solvency and good faith. The volatility of the stock cooperative is illustrated by comparing its seventy-five percent foreclosure rate to the twenty percent home mortgage foreclosure rate during the depression.[21] The financial interdependence of the shareholders results in restrictions on the sale of stock. Typically, a sale is prohibited unless the board of directors consents following an inquiry into the credit standing of the prospective purchaser. Because of such restrictions, the shareholder's stock is uninteresting security to a lending institution.[22] As a result, private cooperatives traditionally have required shareholders to make substantial cash down payments and to have sufficient financial resources to allow the money to be tied up.[23]

Unlike a cooperative, where each individual is dependent upon the solvency of the entire project, a condominium unit owner is responsible only for his own payments. This factor appears to have motivated passage of the New York Condominium Act in 1964. At that time the legislators observed:

"In a cooperative, if one tenant defaults on charges made to him for mortgage payments, the other tenants, if they wish to keep their apartments, must make good the default since the mortgage and the taxes apply to the building as a whole. In a condominium, where each unit has its own mortgage and is separately taxed, this liability for another's default is eliminated." [24]

Liability for another's default is not an acceptable risk for the low- or middle-income groups with which the program herein proposed is concerned. In a condominium, the individual tenant owns, in fee simple, his apartment and an undivided common interest in the common parts of the building. He thus owns a mortgageable asset.

A condominium comes into being when a "declaration," [25] with bylaws annexed, is recorded where conveyances are recorded. The declaration contains both a statement of intention on the part of the owner to submit to the Condominium Act, and a description of the land and building. The bylaws set forth the rules governing operation of the property,[26] and are, in effect, a constitution for the building. The bylaws must provide for a board of managers, at least one-third of whom are to be elected annually by the unit owners. In addition, the bylaws establish such matters as how the property will be operated and how common expenses will be allocated.[27] Amendment to the bylaws requires approval of at least two-thirds of the unit owners. If a unit owner fails to comply with the bylaws or other rules and regulations of the condominium, the board of managers may bring an action against him for injunctive relief.[28]

Illinois has enacted legislation which also permits the board of managers or the unit owners to delegate powers to a nonprofit corporation.[29] This provision was not thought essential, but was passed to remove any possible question concerning the delegation of statutory duties.[30] Formation of a nonprofit corporation achieves a degree of limited liability and may simplify relations with such organizations as the FHA and the proposed National Home Ownership Foundation.[31]

For purposes of low- and middle-income housing reform, the condominium is clearly preferable.[32] First, the condominium unit owner's interest in the premises is concrete, *i.e.*, it is direct real property ownership, as opposed to ownership of shares in a cooperative. Second, when rehabilitation is complete, the unit owner receives his own individual mortgage rather than a share of stock in a corporation holding a large mortgage. Consequently, the defaults of other unit owners, either on a mortgage debt or on taxes, will not result in foreclosure on the entire building and loss of equity by all involved. Third, the involvement of government can be minimized in the case of the condominium.

III. ACQUISITION

The number of vacant buildings in New York City has been increasing at an accelerating rate.[33] As of October 30, 1967, there were 3,151 reported vacant multiple dwellings,[34] distributed as follows: Manhattan—499; Brooklyn—1,831; Queens—266; Bronx—315; Richmond—240. Based on a low average figure of twelve apartments per building, accommodating three persons each, these vacant multiple dwellings could house more than 110,000 persons, the entire population of many medium-size cities.[35]

As might be expected, most of the vacant buildings are located in the poorer sections of the five boroughs. Areas such as Harlem (both East and West), the Lower East Side of Manhattan, the East Bronx, and Bedford-Stuyvesant in Brooklyn are infested with vacant apartments [36] that could be used in the beginning stages of the program.[37]

Three inexpensive methods exist by which title may be taken to both abandoned buildings and many other properties, free and clear of all encumbrances. The first method is to have the city foreclose its tax lien on the property desired.[38] Although in rem tax proceedings may commence only after a four-year default in payment, at any given time many buildings are in such default and the city may proceed against them.[39]

A second method is to have the city foreclose its emergency repair priority lien.[40] Under the new emergency repair program, the city is often called upon to make various repairs in both old and new buildings. A lien is taken prior to all mortgages for the expenses incurred in making these repairs. A large number of buildings would probably be available as potential condominiums under this program.

Finally, receivership proceedings under the Multiple Dwelling Law create a foreclosable lien,[41] which the city can foreclose for the cost of its expenses.

Upon foreclosure of any of these liens, a buyer in many cases probably could purchase title for a nominal amount above the city's liens. For purposes of this program, the buyer would be a nonprofit corporation [42] created specifically for: (*1*) taking title; [43] (*2*) securing FHA insurance for the tenant condominium and giving general financial advice to it; (*3*) hiring and supervising rehabilitation contractors in the exercise of its general business expertise; and (*4*) perhaps negotiating acquisitions with the private building owners. Immediately after acquisition, the nonprofit corporation would offer a condominium in the rehabilitated building to any existing tenants.

It might be argued that only rarely will a building be sold for $5,000 or $10,000 worth of liens, since mortgagees will protect their interest by bidding in to buy off the city's liens. But this would not be true for the

Footnotes at end of article.

many buildings that are not profitable in their present condition. They require complete rehabilitation, and there is little new money presently available from private sources. The lien foreclosure would force the present interest holders to invest an additional $5,000 or $10,000 to cover the liens, and afterwards they would still be left with the same unprofitable building. Many interest holders will forego this privilege.

Private negotiation between the nonprofit corporation and private owners is another feasible method of acquisition. Many buildings probably could be obtained for approximately $1,500 to $2,000 per apartment unit.[44] In the middle-income phase of this program, however, the purchase price, as well as the real estate taxes, will doubtless be much higher. But rehabilitation costs will be low, if not nonexistent.[45]

IV. FHA MORTGAGE INSURANCE

The National Housing Act was amended by the Housing Act of 1961 to include a new section entitled "Mortgage Insurance for Individually Owned Units in Multifamily Structures."[46] This legislation was designed to stimulate the construction and rehabilitation of buildings under the condominium form of tenure.[47] It authorizes the FHA to insure individual mortgages in multifamily structures.[48] By amendment in 1964, the FHA has been allowed to insure a blanket mortgage to cover the cost of acquisition and of construction or rehabilitation.[49] When rehabilitation is complete, the blanket mortgage is released and separate mortgages substituted.[50]

The limitations on mortgage insurance may be summarized as follows:

(1) The term of the individual mortgage cannot exceed thirty-five years or three-quarters of the remaining estimated life of the building, whichever is less.

(2) The interest rate cannot exceed five and one-quarter percent. The FHA charges an insurance premium of one-half of one percent, which apparently can be administratively waived.[51]

(3) The project must contain five or more living units. This requirement can be met by connected buildings that are part of the same project.

(4) The principal of an individual (as opposed to a blanket) mortgage cannot exceed $30,000.[52] Also, the mortgage cannot exceed ninety-seven percent of the first $15,000, ninety percent of the next $5,000, and seventy-five percent of the remainder.[53]

(5) The blanket mortgage covering the cost of construction cannot exceed $20,000,000.

To prevent speculation on the apartment mortgages, the statute provides that a mortgagor must own and occupy one apartment, and in no event may he own more than four.[54] As of December 31, 1965, the FHA had experienced no defaults in mortgages on insured apartments.[55]

V. SOURCE OF MONEY

With FHA insurance available private sources such as banks, insurance companies, and foundations will probably provide the needed money. In the past, large institutional investors have not actively participated in the urban housing field. Their lack of interest is probably attributable to an aversion to government regulation and involvement, as well as to the practical difficulties in operating and managing large real estate holdings.[56] Instead, the institutions have preferred to invest in stocks, bonds, and commercial mortgages. The proposed program would provide institutional investors with insured long-term investments that would involve neither day-to-day management of real estate nor government regulation. Institutional investors, therefore, should be more willing to venture into a condominium-based program than into other forms of urban investment.[57]

The Federal National Mortgage Association (FNMA) is authorized to provide special assistance in the financing of FHA and Veterans Administration mortgages by making advance commitments to purchase certain mortgages.[58] Condominiums financed under Section 234 of the National Housing Act presently come within these special assistance provisions.[59] The FNMA also provides financing assistance for condominiums under its regular program of secondary market operations.[60]

The FNMA was incorporated on February 10, 1938, as an instrumentality of the United States. Presently, it is under the jurisdiction of the Department of Housing and Urban Development.[61] Its business consists primarily of the purchase and sale both of mortgages insured by the FHA and, since 1948, of mortgages guaranteed by the VA. It is empowered to perform three functions:[62] (1) *Secondary market operations*—the purchase and sale of home mortgages to provide liquidity for mortgage investment; (2) *Special assistance functions*—the purchase of mortgages, as authorized by the President or Congress, to assist in financing home mortgages where established financing facilities are inadequate; (3) *Management and liquidating functions*—the management and liquidation of certain mortgages in its portfolio. The Federal National Mortgage Association Charter Act of 1954[63] provided for separate accountability with respect to these operations, each having its own assets, liabilities, and separate borrowing authority.[64]

The central nonprofit corporation proposed in this program should be able to qualify with FNMA as an "eligible seller" of mortgages.[65] If the tenant condominium mortgages qualify under the FNMA special assistance program, the FNMA, in effect, would be the mortgagee. Formally, the approved lending institution would be the mortgagee, but it would issue the mortgage only when it had received a commitment from the FNMA; shortly after issuance, the mortgage would be sold to the FNMA.

For the purposes of the condominium program, two of the FNMA's functions are of special interest. The first of these is the secondary market operation described in the purposes clause, Section 301 of the National Housing Act:

"The Congress hereby declares that the purposes of this title are to establish in the Federal Government a secondary market facility for home mortgages, to provide that the operations of such facility shall be financed by private capital to the maximum extent feasible, and to authorize such facility to—

"(a) provide supplementary assistance to the secondary market for home mortgages by providing a degree of liquidity for mortgage investment capital available for home mortgage financing."[66]

Section 302(b) provides that the FNMA is authorized to purchase mortgages insured by the FHA:

"For the purposes set forth in section 301 and subject to the limitations and restrictions of this title, the Association [FNMA] is authorized, pursuant to commitments or otherwise, to purchase, lend (under section 304) on the security of, service, sell, or otherwise deal in any mortgages which are insured under the National Housing Act."[67]

Section 304, entitled "Secondary Market Operations," provides that "so far as practicable" the operations of the FNMA shall be confined "to mortgages which are deemed by the Association to be of such quality, type, and class as to meet, generally, the purchase standards imposed by private institutional mortgage investors . . . ." The price paid by the FNMA should be "within the range of market prices."[68] Consequently, the purchase of tenant condominium mortgages by the FNMA would not require new legislation or express Presidential authorization, but merely an administrative determination that the mortgages "meet, generally, the purchase standards imposed by private institutional mortgage investors." For the middle-income phase of the condominium program this requirement presents no problem. For the low-income phase, the requirement should be met, since the program will provide housing at a cost within the means of the owner. The secondary market function receives about eighty-five percent of its capital from the public issuance of debentures and short-term discount notes.[69] The Association's authority to issue its obligations to the public was increased in September of 1966 by about 3.75 billion dollars.[70]

The second operation of the FNMA relevant to the condominium program is the special assistance function, defined by section 305.[71] Its purpose is described by section 301 as follows:

"(b) [to] provide special assistance (when, and to the extent that, the President has determined that it is in the public interest) for the financing of (1) selected types of home mortgages (*pending the establishment of their marketability*) originated under special housing programs designed to provide housing of acceptable standards at *full economic costs for segments of the national population which are unable to obtain adequate housing under established home financing programs.*"[72]

The italicized language precisely describes the tenant condominium situation. First, special assistance for low-income condominium mortgages may be needed pending the establishment of their marketability. Second, the tenant condominium is designed to provide housing of acceptable standards "at full economic costs." Finally, the tenant condominium is designed to provide housing "for segments of the national population which are unable to obtain adequate housing under established home financing programs."

The special assistance function is financed by borrowing from the Treasury.[73] In September 1966, Congress authorized one billion dollars of special assistance funds, half of which was to be transferred from an existing Presidential authorization.[74] This authorization is, by its terms, available for mortgages insured under section 234.[75]

VI. REHABILITATION COSTS

Although rehabilitation costs will vary from building to building and in accordance with the amount of work necessary, an examination of the cost data concerning several rehabilitation projects now under construction or recently completed makes possible certain general observations.[76] The complete rehabilitation of an apartment unit in New York City can be accomplished at a cost of from $5,000 to $8,000, exclusive of acquisition cost.

The New York City Rent and Rehabilitation Administration has undertaken to rehabilitate a number of buildings on an experimental basis, and the FHA has issued mortgage commitments on most of these projects. One such project involves the rehabilitation of West 114th Street between Seventh and Eighth Avenues in Manhattan. When completed it will consist of thirty-seven buildings containing 458 apartment units. The cost of the first three buildings completed amounted to an estimated $307,561, or $9,320 per unit, a figure which includes brick and mortar costs and the contractor's one-site expenses as well as the cost of acquisition.[77]

A subsidiary of U.S. Gypsum Company has completed rehabilitation of six buildings on East 102d Street. The total cost of the first building completed, including acquisition cost, was $219,000, or $9,120 per unit ($15.90 per square foot). Acquisition cost of that building was $30,000, or $1,250 per unit. Thus,

Footnotes at end of article.

rehabilitation cost, excluding acquisition cost but including builders' fees, was $7,870 per unit.[78]

Conceivably, the experimental "Forty-Eight-Hour Rehabilitation Project" undertaken with $250,000 of federal funds might lower rehabilitation costs still further. This program is intended to make possible the complete rehabilitation of a building within forty-eight hours, and was carried out on two buildings at 635 and 37 East Fifth Street in Manhattan.[79]

It must be understood that the programs upon which rehabilitation costs in New York City are estimated were experimental and not part of a broad-based program of rehabilitation.[80] Thus, in a new program for the annual rehabilitation of 5,000 apartment units planned by the City Housing and Redevelopment Board,[81] projected cost for a two-unit, owner-occupied masonry structure requiring extensive rehabilitation is $5,400 per unit. For a five-unit, three-story masonry structure requiring extensive rehabilitation and gutting, the projected cost is $6,000 per unit. For a twenty-five-unit Old Law walkup to six stories requiring extensive rehabilitation and gutting and installation of an elevator, $7,600 per unit is envisioned.[82] These figures contemplate rehabilitation under federal programs, and consequently the labor costs they reflect would comply with Section 212 of the National Housing Act.[83]

The foregoing discussion has focused upon radical rehabilitation. But many buildings requiring less extensive rehabilitation are probably available. Such buildings, improved at a cost of $1,500 to $2,500 per unit, would bring homeownership opportunities within the reach of low-income families without subsidy.

The feasibility of ownership housing for low- and middle-income families depends on the builder's cost of construction or rehabilitation and the potential homeowner's cost of long-term financing. If the cost of construction or rehabilitation increases greatly, without a corresponding decrease in financing cost, homeownership becomes impractical. Section 212 of the National Housing Act requires mortgages insured under section 234(d)[84] to provide that wages paid construction workers be in accordance with the Davis-Bacon Act of 1931.[85] The provisions of this act are designed to protect local laborers and contractors against unfair competition from outside contractors whose lower costs reflect lower wage levels prevailing elsewhere.[86] It provides that wages and fringe benefits paid laborers on federal construction and certain types of federally-aided construction shall be at the rate prevailing in the area[87] for the particular work done.

Prevailing wage rates are determined by the Secretary of Labor through a continuing program "for the obtaining and compiling of wage rate information"[88] conducted by the Solicitor of Labor.[89] Unlike new construction, rehabilitation of multiple dwellings in New York City is primarily a nonunion business. The Solicitor of Labor has set union scale wages as the prevailing rate for both new construction and rehabilitation.[90] The cost of rehabilitation at union rates is two or three times the rate that would otherwise prevail. It seems clear that rehabilitation should be a distinct work classification, and that wages for rehabilitation should be different from those for new construction. Although the Davis-Bacon Act attempted to protect local labor from unfair competition with lower-priced outside labor, its effect in New York City has been to protect local union labor from competition with local non-union workers who are unable to gain membership in construction unions because of restrictive practices.

Interestingly, section 212 is expressly made applicable only to the blanket mortgage for construction of a condominium under section 234(d). It does not apply to the individual mortgages of the unit owners.[91] Consequently, an institutional investor could finance the blanket mortgage and upon completion divide it among the unit owners. FHA insurance would be available for the individual mortgages and they could be purchased by the FNMA.[92]

The monthly amortization tables indicate the flexibility of the proposed program. For the low-income phase of the program, a per-unit acquisition and rehabilitation cost of $3,000 to $15,000 can be expected. For the middle-income phase of the program, a per-unit cost of $15,000 to $40,000 is expected, and in some cases new construction might be feasible. For the low-income groups new construction would probably require subsidy, in the form of either an interest subsidy or an extension of the presently permitted mortgage term.[93]

Acquisition and rehabilitation or construction cost	Monthly amortization payments			
	(A) 20 year (at 3 percent)[1]	(B) 35 year (at 5¼ percent)[2]	(C) 35 year (at 5¾ percent)[3]	(D) 40 year (at 5¾ percent)[4]
[5] $3,000	$16.64	$15.63	$16.61	$15.99
5,000	27.73	26.04	27.68	26.65
7,500	41.60	39.06	41.52	39.97
10,000	55.46	52.08	55.36	53.29
12,000	66.56	62.49	66.43	63.95
15,000	83.19	78.12	83.03	79.94
20,000	[6]	104.15	110.71	106.58
25,000	[6]	130.19	138.38	133.23
30,000	[6]	156.23	166.06	159.87
[7] 35,000	[6]	182.27	193.73	186.52
[7] 40,000	[6]	208.30	221.41	213.16

[1] The 3-percent interest rate is based on sec. 312 of the Housing Act of 1964, 42 U.S.C. sec. 1452b (1964, supp. I, 1965), which is limited to urban renewal or code enforcement areas.

[2] The 5¼-percent interest rate is based on sec. 234(f) of the National Housing Act, 12 U.S.C. sec. 1715y(f) (1964). This assumes that the 0.5-percent FHA premium will be waived. If not, the cost would be 5¾ percent as shown in col. C.

[3] The 5¾-percent interest rate is based on the sec. 234(f) rate without waiver of the FHA premium.

[4] Under sec. 213 of the National Housing Act, 12 U.S.C. sec. 1715e (1964, supp. I, 1965, supp. II, 1965-66), a 40-year term mortgage at 5¾-percent interest is authorized. The language of sec. 213 seems to authorize condominium insurance although it has not been so interpreted by the FHA. The omnibus bill reported by the Senate Committee on Banking and Currency proposes the removal of statutory interest rate ceilings under secs. 213 and 234, and would authorize the Secretary of HUD to establish such interest rate as he finds necessary to meet the mortgage market. S. 2700, 90th Cong., 1st sess. secs. 203(c), 203(i) (1967); S. Rept. 809, 90th Cong., 1st sess. 26, 49 (1967). See note 106 infra.

[5] A reasonable partial rehabilitation probably could be achieved for this amount of money. Condominiums for very low income persons would thus be possible.

[6] Not applicable.

[7] Sec. 234 presently does not authorize insurance for a mortgage in excess of $30,000. Persons in this price range, however, are probably capable of a substantial downpayment.

Section 312 of the Housing Act of 1964,[100] on which column *A* is based, is specifically limited to rehabilitation. Unlike most federal housing statutes, it provides for direct federal rehabilitation loans "to assist rehabilitation in an urban renewal area or area in which [there is] a program of concentrated code enforcement activities. . . ."[101] The Secretary is to establish a limit on the term of such loans, and the interest rate may not exceed three percent of the principal outstanding at any time.[102] Appropriations of one hundred million dollars were authorized for each of the next five fiscal years. Authority to make rehabilitation loans terminates as of October 1, 1969.[103] Although the program appears excellent and would be of great aid to the low-income tenant condominium, the federal government has not utilized the statutory authorization of funds. The most recent *Annual Report* of the Department of Housing and Urban Development shows that the rehabilitation loan program has been capitalized at only ten million dollars and that no loans have been made.[104]

Section 221(d)(3) of the National Housing Act,[105] which involves purchases by the FNMA's special assistance function, provides for one hundred percent mortgages for a forty-year term at an interest rate no lower than three percent, or the government borrowing rate. But the section does not authorize condominium insurance.[106] A further limitation on this section is that the project must be in a community with an approved "workable program."[107] As a matter of administrative policy, the FHA has to a great extent limited the use of section 221(d)(3) to urban renewal areas.[108]

VII. MAINTENANCE AND TAXES

In a condominium each householder owns his own apartment unit and therefore is responsible for its maintenance.[109] General costs, based on rental experience, will be reduced in a condominium because of the owners' stake in the building.[110] The cost of heating can be apportioned on a pro rata basis, and is estimated at five to ten dollars per month. Maintenance expenses for the public parts of the building include the salary of a building superintendent[111] and the cost of electric lighting. These expenditures also would be apportioned on a pro rata basis. The total of all maintenance costs is estimated at approximately fifteen dollars per unit per month.

A program of housing reform in an urban setting must maintain, rather than decrease, the city's tax base. Thus, under the condominium program, each householder, as owner of his own apartment unit, will pay taxes on it.[112] The present taxes, on a pro rata basis, usually would be between $3.10 and $4.15 per unit per month.[113]

Fire insurance on a typical twenty-unit masonry building costs about $0.24 per $100 on a one-year rate. A ten percent discount is available when the rate is prepaid for a three-year period.[114] Thus, fire insurance on a one-year rate covering $200,000 in valuation would cost about $480, or $2.00 per unit per month. Liability insurance can be estimated at an additional $2.00 per unit per month.[115]

The total cost of maintenance and taxes can therefore be estimated at between $20 and $30 per unit per month.[116] The program would still be feasible even if maintenance and tax costs rise to $40 or $45 per month.[117]

VIII. TOTAL MONTHLY PAYMENT

The total monthly payment under this program will be the mortgage amortization cost plus maintenance and taxes. On the basis of maintenance and tax costs of $25 per month, the total monthly payments, according to column *B* of the amortization tables,[118] would be as follows:[119]

Acquisition and rehabilitation or construction cost per unit:

	Total monthly payment
$3,000	$40.63
5,000	51.04
7,500	64.06
10,000	77.08
12,000	87.49
15,000	103.12
20,000	129.15
25,000	155.19
30,000	181.23
35,000	207.27
40,000	233.30

The above figures include no element of government subsidy. As noted above, the absence of subsidy will mean the absence of the indignity of income restrictions.

IX. THE OPERATION OF A CONDOMINIUM PROGRAM

The problems of providing housing are not accurately described in terms of blight and neighborhood decay, nor can they be solved merely by bringing existing structures up to standard. Housing is about people, not buildings. Local residents must have concrete opportunities for improving the quality of life in their neighborhoods.

The condominium housing reform can be

Footnotes at end of article.

accomplished through existing neighborhood organizations: churches, social clubs and fraternal organizations, block improvement associations, and tenant groups. These are the organizations that express the desires and needs of local residents.[120] New organizations with grass roots support might be organized by such groups and funded by private foundations for the purpose of providing technical assistance. Such organizations have already begun to undertake schemes of this type.[121] Many groups have already expressed interest in such programs, and have turned to local government agencies for advice and assistance.[122] What then, is the role of local government?

Involvement by local government does not seem essential, though it may be desirable. Some existing homeownership programs have worked with little or no government involvement.[123] In other projects, cities and their agencies have directly participated in policy formulation and activities.[124] The strategy underlying any homeownership program should call for local government to supplement directly or indirectly the ability of local citizens and neighborhood organizations to "unslum" their surroundings.[125]

The initiative must come from below and not be imposed from above. No new legislation is needed; a new attitude, rather than a new policy, will suffice. It would be sufficient if the city supported a program of tenant ownership merely by overcoming the complicated technical, legal, and administrative entanglements involved in the acquisition and rehabilitation of tenements. Another area in which city participation is desirable is land assemblage. As discussed above,[126] no particular building is essential to the success of any program. Through normal tax foreclosures and otherwise,[127] the city should coordinate its code enforcement efforts with those of nonprofit groups engaged in low-cost rehabilitation and construction, thereby providing such groups with salvageable structures at a reasonable cost.

There is no prototype tenant condominium. The proposed reform comprehends both situations in which tenants pool their resources to purchase their building for rehabilitation and large-scale programs of rehabilitation or new construction intended to have a substantial impact on an entire district or city. In either case there would exist within the community an established method of providing housing opportunities for those most in need of them. The mere existence of such a process can mobilize renewed community efforts.

The housing problem of the low-income family entails a keen desire for homeownership, an inability to pay outright for a satisfactory home, and the lack of a financing mechanism to enable it to do so. A church, fraternal, or tenant organization representing the desires and needs of low-income families might decide upon a tenant condominium program for its members. Such an organization is likely to have sufficient funds to maintain its clergyman or other persons with sufficient authority, stature, and ability to institute a tenant ownership arrangement. Depending on the amount of money initially available to it, such an organization would purchase one or more salvageable structures for rehabilitation and would apply for FHA or conventional financing.[128] It would hire the rehabilitation contractors, involve area residents in a policy-making role, and employ the residents in the construction work whenever possible. Before undertaking rehabilitation or construction, the sponsoring organization would offer a condominium apartment in the rehabilitated building to the tenants. Slum dwellers would thus have a way out. By their own efforts, and at a cost equivalent to present rents, they would be afforded a homeownership opportunity.

Nor can the powers of reaction now obstruct or pervert the program; no new legislation is needed. Slum dwellers can be given the opportunity to use their limited funds, otherwise allocated for rent, to obtain quality housing and the dignity of homeownership. And, as taxpaying landowners, they would be able to contribute tax dollars to pay for the services they require.

X. THE PERCY PROPOSAL

A progressive homeownership program was recently advanced by Senator Charles H. Percy of Illinois.[129] On April 20, 1967 (he introduced a bill in the Senate entitled the "National Home Ownership Foundation Act."[130] Cosponsored by thirty-six Republican Senators, the bill is designed to make ownership housing available to low- and middle-income families.[131] To this end, the bill would create a national nonprofit corporation with the authority to issue two billion dollars worth of federally-guaranteed debentures.[132] The funds raised would be loaned to local "eligible borrowers," *i.e.*, nonprofit corporations or organizations. In turn, the local agency would rehabilitate or construct housing and sell it to the occupants. When appropriate, an interest subsidy of approximately four percent would be given to the purchaser.

After a four-month study, Secretary Robert C. Weaver of the Department of Housing and Urban Development recently issued an eight-page statement analyzing Senator Percy's proposal.[133] He observed that there has already been developed "a method of achieving . . . the home ownership objectives of the [Percy] proposal."[134] The Sullivan Amendment, Section 221(h) of the National Housing Act,[135] provides for the insurance of mortgages to finance rehabilitation and sale to low-income mortgagors. The term of each mortgage is to be determined by the Secretary, and the interest rate will be not lower than three percent.[136]

Although Secretary Weaver has asserted that this section meets the "home ownership objectives" of the Percy plan, his department has ruled that section 221(h) does not apply to multiple dwellings.[137] Also, Secretary Weaver has stated that the interest subsidy provision in the Percy legislation "provides a wholly inadequate subsidy to the low-income home buyer at an incalculable total cost to the taxpayer";[138] and yet the cost to the taxpayer is fixed by statute.[139]

Moreover, an interest subsidy is the cheapest type of subsidy known. For example, assume that a housing program involves five billion dollars in capital expenditure and that all the mortgages require a total interest subsidy, *i.e.*, no interest is actually paid by the mortgagor. Based on a four percent government borrowing rate, the annual cost to taxpayers would be 200 million dollars.[140]

The flexibility of an interest subsidy in conjunction with a program of long-term mortgages (75 or 100 years) could provide new and imaginative housing to every segment of the American population. Since the building will likely last that long, there is no reason the mortgage should not also. The condominium program proposed herein does not entail an interest subsidy, but if such a subsidy could be obtained, housing could be made available to very low-income families.

The Percy legislation authorizes the National Home Ownership Foundation to "seek to arrange" equity insurance with private companies to cover a period of unemployment that may strike a homeowner. A related proposal, recommending direct federal equity insurance was submitted to Secretary Weaver's predecessor department in 1963 by Charles Abrams. The proposal was rejected because of the "administrative cost" involved. Mr. Abrams has written: "It is clear that the real obstacle is not the administrative cost but FHA's traditional aversion to innovation and to the assumption of social functions."[141]

Secretary Weaver characterizes the Percy proposal as "hopelessly naive":

"The proposal to develop insurance to protect the purchaser against inability to make the mortgage payment because of disability, or unemployment, is hopelessly naive. There is little hope that private insurance companies, without substantial subsidy, can provide the insurance needed at acceptable rates."[142]

If private insurance companies will not provide this needed protection, it would be advisable to return to the Abrams proposal of direct federal insurance. Secretary Weaver, however, has given no indication that his department will support an effort to provide this sensible and humane insurance.

The central fact of any homeownership program is the monthly cost to the occupant. Secretary Weaver has stated that "while well-intentioned" the Percy proposal demonstrates "little real understanding of the problems of producing housing within the economic means of poor people."[143] The Secretary describes the Percy plan as "totally unsupported by any factual analyses" and based on a "bewildering maze of financial juggling."[144] This criticism of Senator Percy's plan would lead one to expect both clear and substantiated cost analysis from Secretary Weaver. In fact his cost analysis assumes that the National Home Ownership Foundation would have to pay close to six percent for its federally-guaranteed debentures. Though this may be true in the current market the experience of FNMA indicates that a rate of five or five-and-one-quarter percent is more common.[145] Secretary Weaver assumes a typical acquisition and rehabilitation cost of $12,500 and a maintenance cost (taxes, repairs, fuel) of $53.49 per unit per month.[146] In view of the New York experience, where costs are the highest in the country,[147] the acquisition and rehabilitation cost seems unrealistically high.[148] A more reasonable estimate of maintenance costs is between twenty and thirty dollars per unit per month.[149] Secretary Weaver assumes a mortgage term of thirty years; but nothing in the Percy proposal requires this term, and a forty- or fifty-year term may be appropriate. In any event, the length of the mortgage would be determined by the "Board."[150] Finally, the Secretary assumes that a low-income family will spend no more than twenty-five percent of its income for housing. As of 1961, however, the Department of Labor statistics show a national average of 29.5 percent and a New York average of 30.8 percent of income expended on housing.[151] Further, these average figures do not accurately reflect the housing expenditures of low-income families, who usually pay a higher percentage of their incomes for housing than do middle-income families. In fact, the 1960 Census of Housing showed twenty percent of the nation's renter families paying thirty-five percent or more of their gross income for rent.[152] Based on the above assumptions, Secretary Weaver constructs a hypothetical monthly cost under the Percy plan of $132.50 per month without an interest subsidy and $100 per month with a four-and-one-quarter percent interest subsidy. These are computed by adding a monthly amortization of $79.01 (a six-and-one-half percent mortgage on $12,500 over a thirty-year term) to a maintenance figure of $53.49. From this construction, the Secretary concludes that the Percy legislation is inadequate and costly.[153]

A more realistic set of assumptions is as follows: (*1*) the National Home Ownership Foundation will pay five or five-and-one-quarter percent on its debentures;[154] (*2*) the rehabilitation and acquisition cost will be no higher than $10,000 per unit; (*3*) the maintenance cost will be no higher than thirty dollars per unit per month; and (*4*) the term of the mortgage can be forty or fifty

---

Footnotes at end of article.

years, and perhaps longer. On the basis of a no-interest subsidy and an NHOF borrowing rate of five percent, a $10,000 mortgage would be granted for a forty-year term at a five-and-one-half percent interest rate. The amortization cost will be $51.58 per month and the total monthly payment about eighty-one dollars. Even with Secretary Weaver's high maintenance estimate of $53.49, the total monthly cost would be about $105.

With a full four-and-one-quarter percent interest subsidy and a thirty-year term, the monthly amortization cost would be $33.33.[155] With a thirty-dollar per month maintenance expense, the total monthly cost would be $63.33. Based on Secretary Weaver's maintenance estimate, the total monthly cost would be $86.82. If, as the Department of Labor statistics estimate, a family spends thirty percent of its gross income on housing, this would provide housing for persons earning $3,250 a year. This is substantially below the $4,800 a year that Secretary Weaver indicated would be necessary under Senator Percy's legislation.[156]

In terms of New York's housing problems, however, the Percy program would be severely undercapitalized. The program would be capitalized at two billion dollars, with no more than twelve-and-one-half percent, or $250 million, going to any one state.[157] The author's essential disagreement with the Percy proposal, however, stems from the belief that no legislation is needed.

XI. THE KENNEDY PLAN

Senator Robert F. Kennedy of New York has introduced legislation entitled "Urban Housing Development Act of 1967."[158] His proposal involves a combination of tax incentives and low-interest mortgages designed to enlist the "energies and resources of private enterprise"[159] in the construction or rehabilitation of low-income housing in "urban poverty areas."[160] The plan is intended to produce rentals between $70 and $100 per month and to return to investors a yield of between thirteen and fifteen percent per year.[161] No family whose adjusted gross income exceeds $6,000 is eligible for an apartment.[162] The 1960 Census for New York City showed 1,136,000 households, out of a total of 2,655,000, earning in excess of $6,000. Households earning between $6,000 and $10,000 numbered 728,000.[163] The low-interest mortgage aspect of Senator Kennedy's program provides for fifty-year mortgages at a two percent interest rate, granted through the special assistance function of the FNMA. The bill authorizes FNMA to purchase or make commitments for three billion dollars worth of mortgages over a six-year period.[164]

Among the proposed tax incentives are an investment credit,[165] accelerated depreciation,[166] "restoration" of basis,[167] addition to depreciable basis of demolition and site improvement costs and the absence of any salvage value for the building,[168] and availability of Subchapter S treatment to a corporation having corporate shareholders.[169] These provisions, of course, will only be helpful to taxpayers who have substantial income and tax liability from other sources. The provisions will not benefit organizations whose income is exempt in any event, such as foundations, pension trusts, and churches.[170]

The Senator's proposals for federal subsidy by way of tax incentives raise several problems. Initially, the special preferences proposed compromise the principles of tax reform.[171] Also, the permission for a corporation to be a shareholder of a Subchapter S corporation would create a virtually tax exempt class of income. Subchapter S corporations do not pay the corporate tax,[172] but the shareholders of such a corporation include in their gross income their proportionate share of the corporation's income.[173] This amount "shall be treated as an amount distributed as a dividend."[174] Consequently, if a corporation qualifies as a shareholder of a Subchapter S corporation, it will be permitted the eighty-five percent dividends-received deduction allowed corporations under section 243.[175] The Senator's proposal, therefore, results in an effective tax rate of 7.2 percent.[176] The usual requirement that a Subchapter S corporation shareholder be an individual[177] reveals Congress's intent to avoid creation of such tax havens.

Although the immediate social benefits accruing from the Kennedy proposal may override the tax inequities created, the long range results of the program seem more doubtful. In effect, the heavy subsidies will solidify the present landlord-tenant system by boosting landlords' profits. Since the market value of buildings will rise, acquisition costs for condominium programs will increase; and since such programs have no income, they will not reap the benefits of the Kennedy tax incentives. The condominium system, offering the great social values inherent in homeownership, will thus be at a disadvantage in competing with the rental system.[178]

CONCLUSION

It is wasteful for a low- and middle-income housing program not to take advantage of the human desire to own a home. Direct purchase, strict housing code enforcement, tax foreclosures, and an aggressive emergency repair program can make a large number of buildings available for acquisition by nonprofit organizations, which, in turn, can rehabilitate the buildings and institute the condominium system. Additionally, in the program's middle-income phase, buildings might be purchased directly from their present owners; even new construction would be possible. In light of present property values, costs, and financing, the resulting system of individual homeownership would not require higher monthly payments from unit owners than does the present tenancy system.

In both the low- and middle-income phases of the program, income restrictions on eligible occupants would be unnecessary, since there would be no government subsidy. The tax base, upon which all citizens must rely for essential services, would be maintained. Finally, this housing reform can be accomplished without new expense to the government and without legislation other than that which has been enacted and is waiting for use.

FOOTNOTES

† General Counsel, Department of Buildings, City of New York, A.B. 1956, Princeton University; LL.B. 1959, University of Virginia. The views expressed here are those of the authors and do not necessarily reflect those of the Department of Buildings. Grateful acknowledgement is expressed to George J. Castrataro, Jacques L. Debrot, Charles G. Moerdler, and William J. Diamond.

‡ Assistant Counsel, Department of Buildings, City of New York, A.B. 1961, Brooklyn College; LL.B. 1966, New York University; Dip. Law 1966, Cambridge University.

*Third-year student, New York University School of Law. B.A. 1965, M.A. 1967, Columbia University.

[1] New York City has experienced a population upheaval recently. Between 1950 and 1960, Negro population increased by more than 47.7% (360,566), and Puerto Rican population by 148.7% (366,268). Meanwhile, the white population made a mass exodus (1,238,738). N.Y. CITY DEP'T OF COMMERCE & INDUS. DEV., 1964 STATISTICAL GUIDE FOR NEW YORK CITY 16.

[2] *E.g.*, real estate and sales taxes. *See* note 14 *infra*.

[3] In New York City, about 78% of all living units, or 2,078,000 units, are renter-occupied. N.Y. CITY COMMITTEE ON HOUSING STATISTICS, HOUSING STATISTICS HANDBOOK 12–13 (1966) [hereinafter cited as HOUSING STATISTICS HANDBOOK]. Several other cities have comparable rates of renter occupation. *See* BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, CENSUS OF HOUSING: 1960, FINAL REPORT HC (1)–1, UNITED STATES SUMMARY, table 18, pp. 1–127 to 1–153 [hereinafter cited as 1960 CENSUS OF HOUSING, UNITED STATES SUMMARY].

[4] For a history of New York City's building and housing laws from 1647 to the present, see 1966 N.Y. CITY DEP'T OF BLDGS. ANN. REP. 5-9.

[5] Grad & Gribetz, *Housing Code Enforcement: Sanctions and Remedies*, 66 COLUM. L. REV. 1254, 1290 (1966).

[6] For the purposes of this article the term "low income" is used to mean income between poverty levels and $7,000 per year. The term "middle income" is used to mean income between $7,000 and $20,000 per year. The government defines poverty levels on a sliding scale taking into account family size, number of children, and farm-nonfarm residence. For 1966 incomes the poverty level for nonfarm residents ranges between $1,560 (for a woman 65 years or older living alone) and $5,440 (for a family of 7 or more persons). For a nonfarm family of 4 the poverty level is defined as $3,300. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, & BUREAU OF THE CENSUS, U.S. DEP'T OF COMMERCE, SOCIAL AND ECONOMIC CONDITIONS OF NEGROES IN THE UNITED STATES 22 (BLS Rep. No. 332, Current Population Rep., ser. P-23, No. 24, Oct. 1967); *see Hearings on Housing Legislation of 1967 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency*, 90th Cong., 1st Sess. 534 (1967) (remarks of Senator Percy); N.Y. Times, Aug. 15, 1967, at 20, col. 3.

[7] N.Y. CITY COMMUNITY RENEWAL PROGRAM, NEW YORK CITY'S RENEWAL STRATEGY/1965, at 18 (based on the 1960 CENSUS OF HOUSING). As of 1960, the number of units in different rent ranges was as follows (rental figure includes utilities paid for by renter):

Rooms in unit	$0 to $49	$50 to $79	$60 to $119	$120 or more
1	61,000	67,000	32,000	15,000
2 to 3	125,000	390,000	237,000	103,000
4 to 5	126,000	434,000	246,000	127,000
6 or more	11,000	67,000	53,000	39,000

Source: 1960 Census of Housing, U.S. summary, supra note 3, at XLII.

[8] Per-unit figures are on the basis of a two-bedroom apartment.

[9] See p. 384 *infra* for monthly mortgage and amortization tables.

[10] See pp. 387–89 *infra* for an analysis of maintenance costs.

[11] Recent Census Bureau statistics report a poverty population of 15% or 29.7 million people. N.Y. Times, Aug. 15, 1967, at 20, col. 3. Michael Harrington's analysis of past government statistics indicates a tendency to underestimate the amount of actual poverty. M. Harrington, The Other America, app. (1962).

[12] *See* p. 396 *infra*.

[13] C. Abrams, Man's Struggle for Shelter in an Urbanizing World 221 (1964).

[14] The city receives economic benefits if the middle-income group stays, since that group is the most significant source of tax revenues. This is particularly important now, when cities, having extended regressive taxes such as real estate and sales about as far as is practicable, seem on the verge of bankruptcy. An official of the New York City Housing and Redevelopment Board has recently stated, "[i]t's nothing new but there doesn't appear to be much hope for the mid-

dle class in Manhattan." N.Y. Times, July 31, 1967, at 36, col. 8. The authors disagree.

For a thorough investigation of this and other urban problems, see *Hearings on Federal Role in Urban Affairs Before the Subcomm. on Executive Reorganization of the Senate Comm. on Gov't Operations*, 89th Cong., 2d Sess. (1966), and 90th Cong., 1st Sess. (1967) [hereinafter cited as *Executive Reorganization Hearings*]. On January 23, 1967, Senator Ribicoff, chairman of the subcommittee, discussed the 1966 hearings in a comprehensive speech on the Senate floor. 113 CONG. REC. S709–22 (daily ed. Jan. 23, 1967). The Senator observed that the "truly overlooked individual in our housing market is the $5,000 to $8,000 wage earner." *Id.* at S714. He recommended homeownership legislation designed to offer this group "an important choice . . . either to rent or to own in decency and dignity." *Id.*

[15] A unit owner is permitted to deduct real estate taxes (INT. REV. CODE of 1964, § 164) and interest (*id.* § 163). Additional benefits are nonrecognition of gain on sale or exchange of principal residence (*id.* § 1034) and exclusion from gross income of gain from sale or exchange of principal residence of individual who has attained age 65 (*id.* § 121).

[16] Taper, *Profiles*, THE NEW YORKER, Feb. 4, 1967, at 89 (interview with Charles Abrams). On October 28, 1785, Thomas Jefferson wrote to the Rev. James Madison:

[I]t is not too soon to provide by every possible means that as few as possible shall be without a little portion of land. The small landholders are the most precious part of the state. (THE LIFE AND SELECTED WRITINGS OF THOMAS JEFFERSON 390 (Koch & Peden eds. 1944).)

[17] HOUSING STATISTICS HANDBOOK, *supra* note 3, at 2.

[18] *Id.* at 14–15.

[19] *Id.* at 14.

[20] The F. W. Dodge Co., a construction information service of McGraw-Hill, Inc., has projected that apartment construction will comprise 40% of all housing built in 1975. ENGINEERING NEWS-RECORD, Nov. 9, 1967, at 74.

[21] Walbran, *Condominium: Its Economic Functions*, 30 MO. L. REV. 531, 532–33 (1965).

[22] H. VOGEL, THE CO-OP APARTMENT 58 (1960).

[23] A peculiar form of cooperative has grown up in New York under the auspices of the Mitchell-Lama Act, N.Y. PRIV. HOUS. FIN. LAW §§ 10–37 (McKinney 1962, Supp. 1967). Contrary to the sales literature, a Mitchell-Lama cooperative is more properly categorized as rental rather than ownership housing. This type of "moderate income" cooperative contains most of the risks of ownership but none of the usual attributes. Substantial down payments are required. Masaryk Towers, for example, requires a $2,700 down payment for a 2-bedroom apartment. Monthly carrying charges may be increased without the approval of the cooperators, upon the consent of the supervising governmental agency. If a cooperator's income rises above permitted levels he must leave the building. N.Y. PRIV. HOUS. FIN. LAW § 31(3) (McKinney 1962). Significantly, there is no protection against the risk of foreclosure. Since the mortgagee is a state agency, foreclosure may be unlikely; but it is certainly possible. A cooperator's return on a sale of his stock may not exceed the face amount of his original equity. N.Y. City Housing & Redev. Bd. Rules & Regulations, art. XII, § 1; N.Y. State Division of Housing & Community Renewal, Form of By-Laws, at 8. His return is similarly limited on the dissolution of the corporation. N.Y. PRIV. HOUS. FIN. LAW §§ 35, 36 (McKinney 1962, Supp. 1967). These sections do not describe the result of the dissolution of a project aided by a state loan made after May 1, 1959. It is possible, therefore, that a cooperator's return could exceed his equity in this situation. But in view of the general pattern of the law this is unlikely.

Mitchell-Lama projects are exempted from the full disclosure requirements of the New York securities registration statutes. N.Y. GEN. BUS. LAW § 352-e(1)(a) (McKinney Supp. 1967).

Since Congress intended to treat tenants of cooperatives on a par with homeowners, the peculiar nature of the Mitchell-Lama cooperative raises doubts concerning the applicability of INT. REV. CODE of 1954, § 216, which permits a tenant-shareholder to deduct his proportionate share of real estate taxes and interest paid by the corporation. Similar questions are raised concerning the availability of a § 1034(f) (nonrecognition of gain on sale or exchange of principal residence) and § 121(d)(3) (exclusion from gross income of gain from sale or exchange of principal residence of individual who has attained age 65).

[24] *Memorandum of the Joint Legislative Comm. on Housing and Urban Dev.*, McKINNEY'S SESSION LAWS 1839 (1964).

[25] N.Y. REAL PROP. LAW § 339-n (McKinney Supp. 1967).

[26] *Id.* § 339-u.

[27] *Id.* § 339-v.

[28] *Id.* §339-j.

[29] ILL. ANN. STAT. ch. 30, § 318.1 (Smith-Hurd Supp. 1966).

[30] Ramsey, *Condominium—And the Illinois Condominium Property Act*, CHICAGO TITLE & TRUST CO. LAWYERS' SUPP., July 1963, addendum.

[31] *See* pp. 391–98 & notes 124–52 *infra*.

[32] For a history of the concept of the condominium, see Cribbet, *Condominium—Home Ownership for the Megalopolis*, 61 MICH. L. REV. 1207, 1210–14 (1963); Note, *The FHA Condominium: A Basic Comparison with the FHA Cooperative*, 31 GEO. WASH. L. REV. 1014, 1015 (1963). For a detailed comparison of cooperatives and condominiums, see Comment, *Community Apartments: Condominium or Stock Cooperative?*, 50 CALIF. L. REV. 299 (1962).

See generally COMMITTEE ON REAL PROPERTY LAW, N.Y. CITY BAR ASS'N, SYMPOSIUM ON THE PRACTICAL PROBLEMS OF CONDOMINIUM (1964); Symposium, *The Condominium*, 14 HASTINGS L.J. 189 (1963); Berger, *Condominium Primer for Fiduciaries*, 104 TRUSTS & ESTATES 21 (1965); Berger, *Condominium: Shelter on a Statutory Foundation*, 63 COLUM. L. REV. 987 (1963); Boyer & Spiegel, *Land Use Control: Preemptions, Perpetuities and Similar Restraints*, 20 U. MIAMI L. REV. 148 (1965); Kenin, *Condominium: A Survey of Legal Problems and Proposed Legislation*, 17 U. MIAMA L. REV. 145 (1962); Kerr, *Condominimum—Statutory Implementation*, 38 ST. JOHN'S L. REV. 1 (1963); McCaughan, *The Florida Condominium Act Applied*, 17 U. FLA. L. REV. 1 (1964); Moller, *The Condominium Confronts the Rule Against Perpetuities*, 10 N.Y.L.F. 377 (1964); Rohan, *Condominium Housing: A Purchaser's Perspective*, 17 STAN. L. REV. 842 (1965); Rohan, *Disruption of the Condominium Venture: The Problems of Casualty Loss and Insurance*, 64 COLUM. L. REV. 1045 (1964); Rohan, *Drafting Condominium Instruments: Provisions for Destruction, Obsolescence and Eminent Domain*, 65 COLUM. L. REV. 593 (1965); Ross, *Condominium in California—The Verge of an Era*, 36 S. CAL. L. REV. 351 (1963); Schwartz, *Condominium: A Hybrid Castle in the Sky*, 44 B.U.L. REV. 137 (1964); Welfeld, *The Condominium and Median-Income Housing*, 31 FORDHAM L. REV. 457 (1963); Wisner, *Financing the Condominium in New York: The Conventional Mortgage*, 31 ALBANY L.J. 32 (1967); Note, *Condominium—A Comparative Analysis of Condominium Statutes*, 13 DEPAUL L. REV. 111 (1963); 77 HARV. L. REV. 777 (1964).

For a discussion of the tax aspect of condominiums, see Anderson, *Tax Aspects of Cooperatives and Condominium Housing*, N.Y.U. 25th INST. ON FED. TAX 79 (1967); Armstrong & Collins, *Condominium—The Magic in a Word*, U. SO. CAL. 1964 TAX INST. 667; Note, *The FHA Condominium: A Basic Comparison with the FHA Cooperative*, 31 GEO. WASH. L. REV. 1014 (1962); Note, *Condominium—Tax Aspects of Ownership*, 18 VAND. L. REV. 1832 (1965).

[33] N.Y. City Dep't of Bldgs., Report on Vacant Buildings, Sept. 1966, at 1.

[34] N.Y. City Dep't of Bldgs., Weekly Report on the Unsafe Buildings Division, Oct. 30, 1967.

[35] This large number of vacant apartments has given rise to a substantial squatter problem. For a discussion of the squatter problem in Pakistan, the Philippines, Venezuela, and Jamaica, see C. ABRAMS, *supra* note 13, at 14–21.

[36] Many of these buildings adjoin one another. In fact, in a study of the 3 boroughs of Manhattan, Bronx, and Brooklyn, 340 such sites were found to exist. In Manhattan alone, 40 of these sites include 3 or more adjoining vacant buildings. N.Y. City Dep't of Bldgs., Report on Vacant Buildings, Sept. 1966, at 14–15.

[37] In testimony before a committee of the United States Senate in 1966, Buildings Commissioner Charles G. Moerdler suggested a solution to the abandoned buildings problem:

"Now, the threat has been made time and again when everyone ever talks in this area, that landlords are going to walk away from buildings. I suggest to you those who walk away from buildings, the public is well rid of them. I suggest to you further that when that occurs an easy answer is available and it is an answer which we in New York are only just now beginning to explore and it is the so-called tenant cooperative.

"Now, here once the repair is affected by Government it can sue the landlord for the cost of the repair, foreclose on its lien, or, where appropriate, sell the building to the tenants on a cooperative basis so that they can thereafter manage the building and keep it in good repair. This latter concept of returning otherwise unclaimable buildings to the tenants not only has the advantage of providing for some means of recompense for government, but more importantly it provides some measure of assurance the building will thereafter be kept in a good state of repair, the tenants will have a stake in the building and that stake will certainly be preserved and protected.

"I should also add that the proposal for tenant cooperatives will also have ever-increasing attraction as a solution to problems in those areas where unscrupulous or inept landlords finally are forced to abandon their parasitic existence, leaving a legacy of ravaged and abused but otherwise structurally sound buildings. This approach will provide a vehicle for the redemption of such structures."

Hearings on Housing in the District of Columbia Before the Subcomm. on Commerce and Industry of the Senate Comm. on the District of Columbia, 89th Cong., 2d Sess. 340 (1966).

[38] Figures are not available from the Department of Finance concerning the number of buildings in tax arrears. A rigorous enforcement effort would probably result in the availability of a large pool of buildings.

[39] NEW YORK, N.Y., ADMINISTRATIVE CODE §§ D17-1.0 *et seq.* (1963) provide for in rem foreclosure of the city's tax liens that have been due and unpaid for a period of 4 years. The Director of Finance from time to time files with the County Clerk a list of all parcels on which taxes have not been paid for 4 years or longer. Upon this filing and other required filings, the Director of Finance publishes in statutory form a notice to all persons claiming an interest in the parcels, and states that a certified list of delinquent taxes is open to public inspection to a date certain (the last date for redemption) and that any person claiming an interest must file an answer not later than 20 days after the last date

for redemption. Notice by mail is required only for persons who are of record in the office of the Director of Finance. Mortgages and other lienors receive mail notice only if they have filed with the Director. The supreme court is given power to direct a sale at public auction held by the Director of Finance. *Id.* § D17-12.0(a). Where no answer is interposed, the "court shall make a final judgment awarding to the city the possession" of the parcel. *ID.* § D17-12.0(d). In such case, however, the city can petition the court to direct a sale at public auction. Following the sale, the purchaser would be given a deed conveying title in free simple absolute, free and clear of any encumbrances. *Id.* Such a deed is presumptive evidence that all proceedings leading to it are proper. This presumption becomes conclusive 2 years after recording. *Id.* § D17-12.0(e).

[40] Traditional enforcement of housing violations has been premised upon the use of criminal sanctions imposed by courts. During 1966, the housing division of the Buildings Department brought 26,046 new criminal cases to court resulting in an average fine of $14.58 per case. 1966 N.Y. CITY DEP'T OF BLDGS. ANN. REP 245. Since a typical case involves between 20 and 50 violations, the average per-violation fine is well under $1.00. Quite obviously, it is cheaper for a landlord to pay the fine than make the repair; the fine is viewed simply as an additional cost of doing business.

In an effort to avoid this situation, the draftsmen of the Multiple Dwelling Law conferred upon the city the power to perform repairs directly and recoup its expenses. N.Y. MULT. DWELL. LAW § 309 (McKinney 1946, Supp. 1967). The problem and its solution were described as follows:

"In connection with departmental authority, however, the Commission has been forced to observe the virtual breakdown in the enforcement by city magistrates of the Tenement House Law. The practice of frequently adjourning cases involving violations, freely discharging or suspending sentence, and of imposing negligible fines in the trifling number of cases in which any penalty whatever is imposed was noted in the earlier report of this Commission and continued down to the December hearings where vigorous public protest was made. In an effort to relieve the magistrates' courts as far as possible of a responsibility with which they have been unsympathetic, the Commission in the proposed law gives the enforcing department (primarily the tenement house department in the City of New York) power . . . to make the required repairs at the expense of the owner or his property." (Temporary Comm'n To Examine & Revise the Tenement House Law, Report to the Legislature, 1929 Leg. Doc. No. 54, at 5.)

In accord with the intent of the draftsmen, the Multiple Dwelling Law provides for an emergency repair program largely self-sustaining and independent of the judiciary. A revolving fund to finance the program is authorized, to replenish itself out of civil and criminal penalties recovered. N.Y. MULT. DWELL. LAW § 304(5) (McKinney Supp. 1967). The department is given the power to repair dangerous and nondangerous violations with or without a previous order to the owner. *Id.* § 309(1). Recovery of the cost of repair may be had by civil suit against the owner, *id.* §309(3), by establishing a lien on the rents without any court proceedings (the tenants making rental payments directly to the department), *id.* § 309(7) (a)-(b), and by filing, without prior judgment, a lien against the building and land, which lien is prior to existing mortgages. *Id.* § 309(4)(a). In December 1966, the Department of Buildings instituted an emergency program based, in part, on the provisions of the Multiple Dwelling Law. During the 9-month period ending August 31, 1967, repairs had been made in 13,898 buildings. N.Y. City Dep't of Bldgs., Analysis and Recommendations: Rehabilitation, Assistance and Code Enforcement Programs of the Housing and Development Administration, Oct. 24, 1967, at 69.

For an extensive treatment of the emergency repair powers, see N.Y. City Dep't of Bldgs., *A Program for Housing Maintenance and Emergency Repair*, 42 ST. JOHN'S L. REV. 165 (1967). The emergency repair powers have recently been enhanced by the "WMCA" law, ch. 619, McKinney's N.Y. Session Laws 756 (1966), which imposes personal liability on certain shareholders of a corporation whose building has been declared a public nuisance. The law derives its name from WMCA Call for Action, a nonprofit civic group that sought its passage.

[41] N.Y. MULT. DWELL. LAW § 309 (McKinney 1946, Supp. 1967).

[42] See pp. 390–93 *infra* concerning the creation of such a corporation.

[43] If the city itself takes title, there are severe charter problems relating to the sale of city property. *See* NEW YORK, N.Y., CITY CHARTER §§ 39(16), 384 (1963). An additional benefit of the proposal is that the lien will be paid and the city will be saved the expense of taking title and caring for the property.

[44] Mr. Howard Auerbach of Wm. A. White & Sons, real estate brokers, commented on this problem:

"We can usually make it clear to the landlord that his particular structure is not absolutely necessary to the success of the project. If a group of landlords hold out for inflated prices, we can always seek out an altogether different area for rehabilitation. Today, practically every block in Harlem is a prime candidate for rehabilitation, and there are hundreds more throughout the city . . ." (Real Estate Weekly, Aug. 18, 1966, at 11, col. 3.)

There seems to be general agreement that the slum real estate market is currently depressed. In a letter to the Mayor, Mr. Sidney Freidberg, an attorney, has written that "in terms of the destruction of property values" the Buildings Department has "wreaked more havoc than the Chicago fire, the San Francisco earthquake and the sack of Rome by Attila the Hun. This department is inefficient to the point of idiocy, unjust, confiscatory and cynically sadistic." The letter continued: "Buildings which sold for five or six times the annual rental before your inauguration are now going begging at less than half the price." N.Y. World Journal Tribune, Feb. 27, 1967, at 6, col. 4.

[45] In some cases the acquisition cost may be zero. For example, assume that the Emergency Repair Program is forced to install a new boiler and receives a priority lien in the amount of $5,000. At the foreclosure sale, the nonprofit corporation will purchase title to the property including the new boiler. As a result, the projected rehabilitation cost for the building would be reduced by $5,000.

[46] National Housing Act § 234, 75 Stat. 160 (1961), 12 U.S.C. § 1715y (1964). The legislative history of § 234 is found in S. REP. No. 281, 87th Cong., 1st Sess. 16–17 (1961); H.R. REP. No. 602, 87th Cong., 1st Sess. (1961); *Hearings on Housing Legislation of 1961 Before a Subcomm. of the Senate Comm. on Banking and Currency*, 87th Cong., 1st Sess. 327–28, 434–35, 479–82 (1961); *Hearings on Housing Act of 1961 Before the Subcomm. on Housing of the House Comm. on Banking and Currency*, 87th Cong., 1st Sess. 8–9, 109–10, 235–36, 247–53, 793 (1961); *Hearings on Housing Legislation of 1960 Before a Subcomm. of the Senate Comm. on Banking and Currency*, 86th Cong., 2d Sess. 484–608, 980–83 (1960) [hereinafter cited as *1960 Senate Hearings*]; *Hearings on General Housing Legislation Before the Subcomm. on Housing of the House Comm. on Banking and Currency*, 86th Cong., 2d Sess. 246–74 (1960) [hereinafter cited as *1960 House Hearings*].

The impetus for § 234 came from a Puerto Rican delegation headed by the Resident Commissioner, Dr. A. Fernos-Isern. *1960 House Hearings, supra* at 246–74; *1960 Senate Hearings, supra* at 585–608. The delegation observed that the condominium was a popular form of tenure in Puerto Rico and that its financing for middle- and low-income families would be assisted by the availability of FHA insurance. The 1960 legislation died in committee, presumably because of FHA opposition. *See 1960 Senate Hearings, supra* at 980–82 (testimony of FHA Commissioner Zimmerman).

In transmitting the Housing Act of 1961 to Congress, President Kennedy stated: "We must resume with full vigor the forward movement toward a better life for all Americans. Essential to such a better life is housing available to all at a cost all can afford." PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES, JOHN F. KENNEDY 1961, at 244 (1962).

[47] *See* Harrison, *The FHA Condominium: Use as a Means of Meeting the Need for Moderate Income Housing*, 11 N.Y.L.F. 458, 459 (1965). For general discussions of condominiums in a low-income context, see *A Chance for Low-Income Families To Own a Home*, Boston Sunday Globe, Oct. 15, 1967, at B–45, col. 1, and Krasnowiecki, *Professor Suggests Use of Condominium Concept*, VA. L. WEEKLY, March 3, 1966, at 1, *reprinted at request of Senator Percy in* the CONGRESSIONAL RECORD, vol. 113, pt. 9, pp. 12260–12262.

[48] National Housing Act § 234(c), 12 U.S.C. § 1715y(c) (1964).

[49] *Id.* § 234(d), 12 U.S.C. § 1715y(d) (1964, Supp. I, 1965). The committee reports on the 1964 amendments are found at S. REP. No. 1265, 88th Cong., 2d Sess. 44–46 (1964); H.R. REP. No. 1828, 88th Cong., 2d Sess. 44–46 (1964); H.R. REP. No. 1703, 88th Cong., 2d Sess. 5–6, 37–38, 80–84 (1964). This amendment also extended the maximum term of an individual mortgage from 30 to 35 years.

[50] National Housing Act § 234(f), 12 U.S.C. § 1715y(f) (1964).

[51] Such waiver is possible with § 221(d)(3) insurance. National Housing Act § 221(f), 12 U.S.C. § 1715*l*(f) (Supp. II, 1965–66).

[52] Other limitations exist on a per-apartment basis. Thus a mortgage cannot exceed; on a 1-bedroom apartment, $12,500, and $15,000 in an elevator building; on a 2-bedroom apartment, $15,000, and $18,000 in an elevator building; on a 3-bedroom apartment, $18,500, and $22,500 in an elevator building; on a 4-or-more-bedroom apartment, $21,000, and $25,500 in an elevator building. These limitations, however, may, in the Commissioners discretion, be increased by 45% in high-cost areas. National Housing Act, § 234(e)(3), 12 U.S.C. § 1715y(e)(3) (Supp. II, 1965–66).

[53] The Administration has recommended increasing the maximum mortgage limits from 75% to 80% of the value in excess of $20,000. *Hearings on Housing Legislation of 1967 Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency*, 90th Cong. 1st Sess. 88 (1967) [hereinafter cited as *1967 Senate Hearings*] (testimony of Robert C. Weaver). This recommendation has been incorporated in the omnibus housing bill reported by the Senate Committee on Banking and Currency. S. 2700, 90th Cong., 1st Sess. § 205 (1967); S. REP. No. 809, 90th Cong., 1st Sess. (1967).

[54] National Housing Act § 234(c), 12 U.S.C. § 1715y(c) (1964); 24 C.F.R. § 234.26(e) (1967). The House version prohibited any ownership other than by an occupant. The existing provision permitted ownership of 3 additional units was added by the Senate.

[55] 1965 U.S. DEP'T OF HOUSING & URBAN DEV. ANN. REP. 75 table 26 [hereinafter cited as 1965 HUD ANN. REP.] (showing 807 insured mortgages in force). The 1965 *Annual Report* is the most recent available.

[56] *See generally* C. ABRAMS, THE CITY IS THE FRONTIER 92–100 (1965).

[57] Another method of attracting hesitant private capital is through the sale of federally guaranted debentures, the proceeds of which would be used for mortgage investment. This method should draw capital from custodians of trusts and pension funds who presently avoid the mortgage market because of servicing problems and lack of liquidity. A system of federally guaranteed debentures for this purpose has been proposed by Senator Percy. *See* p. 394 *infra; 1967 Senate Hearings, supra* note 53, at 465–66 (colloquy between Senator Percy and Mr. Frank Carr, President of John Nuveen & Co., appearing on behalf of the Investment Bankers Ass'n of America); *id* at 1534–38 (statement of Senator Percy). *See also* Heimann, *The Necessary Revolution in Housing Finance,* in *1966 Executive Reorganization Hearings, supra* note 14, at 2274, 2279; *Hearings on Mortgage Credit Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency,* 90th Cong., 1st Sess. 5, 12–13 (1967) [hereinafter cited as *1967 Mortgage Credit Hearings*] (testimony of Secretary Weaver); *id.* at 179–83 (statement of John Heimann).

The omnibus housing bill reported by the Senate Committee on Banking and Currency would authorize the Federal National Mortgage Association (*see* pp. 375–79 *infra*), in its secondary market operation, to subject part or all of its mortgages to a trust. S. 2700, 90th Cong., 1st Sess. § 229 (1967). FNMA would then issue and sell trust certificates representing the beneficial interests in mortgages held in trust. *Id.;* S. REP. No. 809, 90th Cong., 1st Sess. 44–45 (1967). Mr. Raymond Lapin of FNMA has stated that the proposed trust certificate would be "a realistic means of providing the mortgage market with a security instrument that it needs to compete in the nation's capital markets." Address by Mr. Lapin, 23d Annual Conference of Senior Executives in Mortgage Banking, New York University, Jan. 12, 1968.

[58] FNMA Charter Act of 1954, 12 U.S.C. §§ 1716–23 (1964, Supp. I, 1965, Supp. II, 1965–66).

[59] National Housing Act § 305(g), 12 U.S.C. § 1720(g) (Supp. II, 1965–66), authorizes the FNMA to make commitments to purchase "any mortgages which are insured under Title II of this Act." Title II, "Mortgage Insurance," includes § 234, under which condominiums would be financed.

[60] *See* 1965 HUD ANN. REP. 145 table 89.

[61] For a general discussion of the FNMA, see L. Vidger, FNMA (unpublished dissertation, University of Washington, 1960, available at the New York City Public Library).

[62] The division of functions was created by the FNMA Charter Act of 1954, 12 U.S.C. §§ 1716–23 (1964, Supp. I, 1965, Supp. II, 1965–66). This legislation was the result of PRESIDENT'S ADVISORY COMMITTEE ON GOV'T HOUSING POLICIES AND PROGRAMS, RECOMMENDATION (1953).

[63] 12 U.S.C. §§ 1716–23 (1964, Supp. I, 1965, Supp. II, 1965–66). Below is a table indicating the 1965 activities of FNMA by type of operation (dollars in millions):

Function or operation	Purchases	Sales	Repayments	Other credits	Yearend portfolio	Contracts outstanding
Secondary market operations	$756.9	$46.5	$125.6	$62.2	$2,519.5	$461.5
Special assistance functions	135.6	102.0	52.9	37.7	1,340.3	331.9
Management and liquidating functions	20.3	54.2	113.2	14.0	952.6	
Total	912.8	202.7	291.7	113.9	4,812.4	793.4

Source: 1965 HUD Annotated Report 142, table 78.

[64] 12 U.S.C. § 1722 (1964).

[65] 24 C.F.R. §§ 1600.71–.73 (1967).

[66] 68 Stat. 612 (1954), 12 U.S.C. § 1716 (1964).

[67] 68 Stat. 613 (1954), *as amended,* 75 Stat. 176 (1961), 12 U.S.C. § 1717(b) (1964, Supp. II, 1965–66).

[68] As originally enacted in 1954, § 304 provided that the price paid by the FNMA be "at the market price." 68 Stat. 615. The language was amended to its present form by Act of Aug. 7, 1956, § 203, 12 U.S.C. § 1719 (1964).

[69] 1965 HUD ANN. REP. 148 table 93. As of December 31, 1965, the FNMA's secondary market operation had purchased mortgages insured under § 234 in the amount of $3,400,000. *Id.* at 145 table 89.

[70] The Act of Sept. 10, 1966, 80 Stat. 738, amended §§ 303(d), (e), and 304(b) of the National Housing Act, 12 U.S.C. §§ 1718(d)–(e), 1719(b) (Supp. II, 1965–66). This results in an increased borrowing power of about $3.75 billion. *See 1967 Mortgage Credit Hearings, supra* note 57, at 39–40.

[71] 12 U.S.C. § 1720 (1964).

[72] 68 Stat. 612 (1954), 12 U.S.C. § 1716 (1964) (emphasis added).

[73] National Housing Act § 305(d), 12 U.S.C. § 1720(d) (1964).

[74] Act of Sept. 10, 1966, 12 U.S.C. § 1720(g) (Supp. II, 1965–66). As of June 1967, about $400 million of this amount was still available. *1967 Mortgage Credit Hearings, supra* note 57, at 40 (testimony of Philip Brownstein, Ass't Sec'y for Mortgage Credit and Federal Housing Comm'r).

[75] *See* note 59 *supra.*

[76] The current thinking of the Administration with respect to rehabilitation is found in *1967 Senate Hearings, supra* note 53, at 12–13, 95–111 (testimony of Secretary Weaver).

[77] N.Y. CITY RENT & REHABILITATION ADMINISTRATION 7TH QUARTERLY REP., March 31, 1966, at 3. Subsequent *Quarterly Reports* do not include cost figures. Similarly, Secretary Weaver's recent discussion of the West 114th Street project does not include such data. *See 1967 Senate Hearings, supra* note 53, at 100–02. Senator Percy, however, has stated that the average cost per unit is $13,491. *Id.* at 201. *See generally 1966 Executive Reorganization Hearings, supra* note 14, at 564–73 (testimony of Mayor Lindsay).

[78] N.Y. CITY RENT & REHABILITATION ADMINISTRATION 7TH QUARTERLY REP., March 31, 1966, at 7. Based on its New York experience, U.S. Gypsum has estimated a total cost figure of $12,000 per unit for a 150-unit project in Chicago. ENGINEERING NEWS-RECORD, Sept. 21, 1967, at 64.

[79] *See generally 1967 Senate Hearings, supra* note 53, at 102 (testimony of Secretary Weaver); N.Y. Post, May 10, 1967, at 58, col. 2; N.Y. Times, March 30, 1967, at 91, col. 1.

[80] A national rehabilitation market of $50–75 billion has been estimated by ACTION-Housing, Inc., a nonprofit corporation that seeks to promote rehabilitation and lower costs by new methods. N.Y. Times, Feb. 5, 1967, § 8, at 1, col 2. *See also 1967 Senate Hearings, supra* note 53, at 993–1013 (testimony of ACTION-Housing, Inc.).

[81] N.Y. CITY HOUSING & REDEV. BD., A LARGE SCALE RESIDENTIAL REHABILITATION PROGRAM FOR NEW YORK CITY 33 (HRB Rep. No. 14, Feb. 1967) [hereinafter cited as HRB Rep. No. 14].

[82] *Id.* at 12 table 2. The Housing and Redevelopment Board cost seems reasonable in light of the experience of ACTION-Housing, Inc., in Pittsburgh, which has shown that 2-story, single-family row houses over 60 years old can be completely rehabilitated with modern facilities at a cost of $6,000 per dwelling. *1967 Senate Hearings, supra* note 53, at 995. In a 1966 study for the City of Philadelphia, Charles Abrams reported a large supply of row houses, mostly in the Negro sections, which could be purchased at prices between $2,000 and $5,000. The buildings did not require rehabilitation, Mr. Abrams recommended that these row houses be made available as ownership housing to very low income families $2,700–$3,600 per year). *Id.* at 712. The possibility of a similar program for New York City was described by Mr. Abrams as follows:

"I am not saying that the Philadelphia situation or its price-levels are nationwide. In contrast to Philadelphia's row housing pattern, low income families in New York City and Chicago live in multi-family houses, but even in New York City the price of a ten-family house in Harlem is today only $20,000 or $2,000 per unit, reflecting in more vertical form the price levels I found in Philadelphia's row housing. If each unit in New York City could be improved at a cost of not more than $4,500, a low income family would be able to afford the unit if the interest rate were 3 percent. No additional subsidy would be needed." (*Id.* at 713.)

[83] 12 U.S.C. § 1715(c) (Supp. I, 1965); *see* pp. 381–82 *infra.*

[84] The provisions of this section apply generally to FHA-insured projects, including the insurance of any loan or mortgage under §§ 207, 213, 220, 221(d)(3), 221(d)(4), 221(h)(1), 231, 232, 233, and direct federal loans pursuant to § 312. *See* Housing Act of 1950, § 402(f), 12 U.S.C. § 1749b(f) (1964). The AFL–CIO has recommended that a Davis-Bacon provision be included in Senator Percy's homeownership bill, which is discussed at pp. 393–99 *infra. 1967 Senate Hearings, supra* note 53, at 1557–58 (statement of C. J. Haggerty for AFL–CIO). The Davis-Bacon Act would apply to the two new mortgage insurance programs proposed in the omnibus bill reported by the Senate Committee on Banking and Currency. S. 2700, 90th Cong., 1st Sess. §§ 235(i)(2), 236(d)(1) (1967); S. REP. No. 809 90th Cong. 1st Sess. (1967).

[85] 40 U.S.C. § 276a (1964).

[86] The Senate Report expressed the original intent of the Davis-Bacon Act as follows: "The Federal Government must under the law award its contracts to the lowest responsible bidder. This has prevented representatives of the departments involved from requiring successful bidders to pay wages to their employees comparable to the wages paid for similar labor by private industry in the vicinity of the building projects under construction. Though the officials awarding contracts have faithfully endeavored to persuade contractors to pay local prevailing wage scales some successful bidders have selfishly imported laborers from distant localities and have exploited this labor at wages far below local wage rates. . . . "Not only are local workmen affected but qualified contractors residing and doing business in the section of the country to which Federal buildings are allocated find it impossible to compete with the outside contractors who base their estimates for labor upon the low wages they can pay to unattached migratory workmen imported from a distance and for whom the contractors have in some cases provided housing facilities and food in flimsy temporary quarters adjacent to the project under construction." (S. Rep. No. 1445, 71st Cong. 3d Sess. 2 (1931). *See also* 74 Cong. Rec. 6510 (1931) (remarks of Representative Bacon).)

[87] "Area" is defined in 29 C.F.R. § 1.2(b) (1967) as the city, town, village, or other civil subdivision of the state where the work is to be performed.

[88] *Id.* § 1.3.

[89] The prevailing rate is the rate paid to the majority of those employed in the area. *Id.* § 1.2(a)(1). If there is no statistical majority, the prevailing rate is the rate at which the greater number of workers are paid, provided that the greater number comprises at least 30% of the total. *Id.* § 1.2(a)(2). Should the

greater number comprise less than 30% of the total, the prevailing rate is the average, *id.* § 1.2(a)(3), determined by adding the hourly rates paid to all workers in the classification and dividing the resulting figure by the total number of such workers. *Id.* § 1.2(c).

[90] Decision of the Secretary, AG–17,077, July 23, 1967.

[91] National Housing Act § 234(c), 12 U.S.C. § 1715y(c) (1964).

[92] On September 13, 1967, the President announced the insurance industry's pledge of $1 billion for mortgage investments in ghetto housing and industry. The money is to be subscribed by the life insurance companies on a prorated basis according to their assets. The FHA will insure the investments against risk of loss, N.Y. Times, Sept. 14, 1967, at 1, col. 1; American Banker, Sept. 15, 1967, at 9, col. 1.

An imaginative if politically difficult, plan would be to use the $1 billion as a revolving fund to finance blanket mortgages for condominium housing. After construction or rehabilitation, the blanket mortgage, would be divided into individual mortgages which could be insured under § 234 and sold to the FNMA.

The insurance industry's pledge and other efforts to mobilize private interests in the solution of urban problems recently led Professor John Kenneth Galbraith to comment: "Private enterprise and private investment are being aroused to their responsibilities—as they have without result a hundred times before." Specifically referring to the insurance industry offer, Professor Galbraith stated: "Nothing will come of it." N.Y. Times, Oct. 17, 1967, at 77, col. 1.

The $1 billion offer has caused Charles Abrams to suggest the desirability of legislation to permit a federal interest subsidy on private loans. Mr. Abrams points out that this proposal would, in addition to stretching limited federal funds, also avoid problems arising from the inclusion of direct federal loans in the federal budget. N.Y. Times, Nov. 6, 1967, at 46, col. 5. It is worth noting that the President's Commission on Budget Concepts recently warned that inclusion of direct loans in the budget may cause the "undue expansion" of guaranteed and insured loans which are not so included. The Commission stated:

"Moreover, serious consideration should also be given to new forms of coordinated surveillance of direct, insured and guaranteed loans. Otherwise, an appropriate choice in terms of effective resource allocation may be difficult to achieve and the inclusion of direct loans in the budget may encourage an undue expansion of guaranteed and insured loans to avoid being counted in the budget." (N.Y. Times, Oct. 18, 1967, at 35, col. 4, *quoting* Report of the President's Comm'n on Budget Concepts.)

[93] Assuming low land acquisition cost (as described as pp. 307–72 *supra*), new construction may be feasible for persons earning under $7,000 a year. In New York City, new construction cost (including ordinary excavation, foundation footings, and contractors' overhead and profit) may be estimated at between $1.50 and $1.80 per cubic foot for a fireproof high-rise multiple dwelling. Assuming between 8,000 and 10,000 cubic feet to be attributable to a 2-bedroom apartment, the construction cost would be between $12,000 and $18,000 per apartment. *See generally* F. W. Dodge Co., Building Cost and Specification Digest (March 1967).

The New York City Housing Authority's current construction cost is about $1.50 per cubic foot. The average Housing Authority room contains 2,025 cubic feet (including an allocable share of common areas such as hallways and cellar). A 2-bedroom apartment would therefore have 8,100 cubic feet attributable to it and cost $12,150.

In the near future, the housing industry may be subject to radical change. *Engineering News-Record*, a construction industry journal, has warned that the industry may be bypassed by revolutionary changes developed and implemented outside the industry. One hopes that a major aspect of such developments, whether accomplished within or without the construction industry, would be lowered cost. The *Engineering News-Record* observed:

"Hovering over the construction industry is a vague, but ominous threat—the fear that some day, in a burst of impatience with the complicated mechanisms of contemporary construction practice, society will turn to the giant aerospace industry, with its systems approach, to sweep away the cumbersome obstacles—the outdated building and zoning codes, the stultifying union restrictions, the buck-passing organizational labyrinth—and bring the full potential of 20th century technology to bear on our environmental problems. What makes this threat credible is the virtual monopoly in the low-cost housing market achieved by the mobile home industry, which according to two Portland Cement Association officials, 'has grown outside the traditional construction industry—without benefit of its design professions, building contractors, and materials.'" (Engineering News-Record, November 9, 1967, at 75.) *See generally* testimony concerning the construction industry in *1967 Executive Reorganization Hearings, supra* note 14, at 3507–93; *id.* at 3257, 3284–85, 3300 (testimony of Dr. Jerome B. Wiesner, Provost, Massachusetts Institute of Technology).

(Footnotes 94 through 99 appear as table references 1 through 7, p. 13154.)

[100] 42 U.S.C. § 1452b (1964, Supp. I, 1965).

[101] 79 Stat. 479, 42 U.S.C. § 1452(a) (Supp. I, 1965). On August 29, 1967, the Kate Maremont Foundation and Dr. Martin Luther King, Jr., announced that § 312 was to be utilized for rehabilitation in a condominium plan involving 11 buildings (156 units) in the Lawndale section of Chicago. The estimated acquisition and rehabilitation cost is $1,200,000, and monthly payments of under $100 are expected. Kate Maremont Foundation, Press Release, Aug. 29, 1967, *reprinted in* the Congressional Record, vol. 113, pt. 20, p. 26654. Monthly maintenance cost is estimated at $40 per unit, and the rehabilitation cost at $4,500 per unit. The low rehabilitation cost is said to be due to a "no partition changes" approach as opposed to gutting. Letter from Executive Vice President Victor de Grazia to the N.Y. City Dep't of Bldgs., Sept. 14, 1967, on file in the Cornell Law Library.

[102] Housing Act of 1964, §§ 312(c)(2)–(3), 42 U.S.C. §§ 1452b(c)(2)–(3) (1964).

[103] *Id.* §§ 312(d), (h), 42 U.S.C. §§ 1452(d), (h) (Supp. I, 1965).

[104] 1965 HUD Ann. Rep. 263, tables 273–75.

[105] 12 U.S.C. § 1715*l*(d)(3) (Supp. II, 1965–66).

[106] Discussions of § 221(d)(3) are found in Note, *Government Housing Assistance to the Poor*, 76 Yale L.J. 508 (1967), and Prothro & Schomer, *The Section 221(d)(3) Below Market Interest Rate Program for Low and Moderate Income Families*, 11 N.Y.L.F. 16 (1965). The former also contains a discussion of the rent supplement program, Housing and Urban Development Act of 1965, § 101, 12 U.S.C. § 1701s (Supp. II, 1965–66), and the Widnall plan, or leased-housing program. *Id.* § 103, 42 U.S.C. § 1421b (Supp. I, 1965).

Senator Ribicoff has introduced legislation that would make available to homeowners benefits similar to those provided in § 221(d)(3) and § 312. S. 1434, 90th Cong., 1st Sess. (1967). Apparently the Senator's program would be limited to dwellings with 4 units or less. Senator Ribicoff has testified that his legislation is intended to assist persons earning between $5,000 and $8,000 per year. *1967 Senate Hearings, supra* note 53, at 285, 288 (testimony of Senator Ribicoff).

Senator Mondale's homeownership legislation is more limited in scope. S. 2124, 90th Cong., 1st Sess. (1967). It provides for a helpful interest subsidy (proposed § 235(c)), but is limited to "existing, previously occupied, single-family dwellings [for sale] to low or moderate income purchasers" (proposed § 235(a)). Senator Mondale views his legislation as filling a gap between § 221(d)(3), which "program mainly provides rental housing," and § 221(h) which "covers housing to be substantially rehabilitated for resale to low-income families." *1967 Senate Hearings, supra* note 53, at 473, 476 (testimony of Senator Mondale).

Senator Joseph S. Clark of Pennsylvania has also introduced homeownership legislation. S. 2115, 90th Cong., 1st Sess. (1967). *See also 1967 Senate Hearings, supra* note 53, at 82–85 (colloquy between Senator Clark and Secretary Weaver). In a statement accompanying his legislation, Senator Clark observed that tens of thousands of families who are of moderate means and can afford to buy a home have been denied FHA mortgage insurance because they fail to meet that agency's high financial standards. The Senator continued:

"As a result of these standards, FHA home financing has tended to operate primarily as a subsidy to middle class families buying homes in the suburbs. By and large this subsidy has not been available to persons living in the older parts of our cities, to members of minority groups, and to other persons of modest means." (Senator Joseph S. Clark, News Release, July 13, 1967, *reprinted in* the Congressional Record, vol. 113, pt. 14, p. 18780. The Senator's bill would establish a special revolving insurance fund for which $15 million is authorized for appropriation. S. 2115, 90th Cong., 1st Sess. § 235(j) (1967). The proposed legislation contains no interest subsidy. In explaining the thrust of his bill, Senator Clark stated:

"The bill is aimed primarily at the family with an income of from $4,000 to $6,000—too high for public housing, but too low for help under FHA's existing programs. There is strong evidence that families in this income range can achieve home ownership with FHA financing and budget counselling, but without a subsidized interest rate. This bill is designed to give them that chance." (Senator Joseph S. Clark, *supra*, the Congressional Record, vol. 113, pt. 14, p. 18780.

Recently, the Senate Committee on Banking and Currency reported out an omnibus housing bill entitled the "Housing and Urban Development Act of 1967." S. 2700, 90th Cong., 1st Sess. (1967); S. Rep. No. 809, 90th Cong., 1st Sess. (1967). The bill is intended "to assist lower income families obtain decent housing through homeownership." S. Rep. No. 809, *supra* at 3. To this end the bill proposes two new types of mortgage insurance, an interest subsidy, a special risk insurance fund, and a technical assistance service. The bill would authorize mortgage insurance—for condominiums and other forms of homeownership—to low- and moderate-income persons who because of their credit history or irregular income patterns cannot qualify for such insurance under existing FHA programs. S. 2700, 90th Cong., 1st Sess. § 102 ("Credit Assistance") (1967). The proposed interest subsidy authorizes the Secretary to make direct monthly payments on a market rate mortgage to the mortgagee. *Id.* § 101 ("Homeownership Assistance"). The mortgage insured and subsidized under this provision could be on a condominium, cooperative, or single-family dwelling. The amount of subsidy cannot exceed the benefits that would result to a mortgagor under § 221(d)(3). A person becomes eligible for subsidy if his monthly payments for mortgage amortization, taxes, insurance and mortgage insurance premium would exceed 20% of his income. The subsidy is determined on a sliding scale which is designed to make up the difference between the

monthly payment and 20% of the mortgagor's income. At least every 2 years the mortgagor's income must be recertified in order to adjust the subsidy payment. The subsidy is available only if the purchaser's income does not exceed 70% of § 221(d)(3) income limits. In New York City 70% of the § 221(d)(3) limit is presently $6,125 for a family of four. *1967 Senate Hearings, supra* note 53, at 122. A further limitation on the subsidy is that, with minor exceptions, it will be available only for newly constructed or substantially rehabilitated units. S. 2700, 90th Cong., 1st Sess. § 101 (1967) (proposed National Housing Act § 235(1)(3)(A)); S. REP. No. 809, *supra* at 9, 46. Therefore, the subsidy would not be available for a low cost home-ownership program premised on improving existing units at a cost of $1,500 to $2,500 rather than on extensive rehabilitation. The bill provides for a "special risk insurance fund" for the payment of claims on mortgages insured under § 101 (home-ownership assistance) and § 102 (credit assistance). S. 2700, 90th Cong., 1st Sess. § 103 (1967); S. REP. No. 809, *supra* at 11–12, 47.

The Senate committee estimates that the interest subsidy would be adequate to cover a total of 200,000 units over a 3-year period and authorizes $70 million to be appropriated for such purpose, S. REP. No. 809, *supra* at 10.

The proposed bill will also extend § 221(d)(3) to include condominiums. S. 2700, 90th Cong., 1st Sess. § 104 (1967); S. REP. No. 809, *supra* at 12–13, 47.

Additionally, the omnibus bill would broaden existing law to authorize the sale of condominium units in multi-family public housing projects to tenants. S. 2700, 90th Cong., 1st Sess. § 216 (1967); S. REP. No. 809, *supra* at 37, 52. Existing law, as amended in 1965, provides that detached or semi-detached public housing units may be sold to tenants. Housing Act of 1937, § 15, *as amended,* Housing and Urban Development Act of 1965, § 507(a), 42 U.S.C. § 1415(a) (Supp. I 1965). The reaction of the Administration to the 1965 amendment was questioned in the *1967 Senate Hearings, supra* note 53, at 71–75. Two years later, in September of 1967, HUD announced that a "precedent-making inclusion of home ownership of public housing will be launched with a 200-unit [single-family detached] facility in North Gulfport, Miss." HUD NOTES, Sept.-Oct. 1967, at 14. The HUD announcement also states that the North Gulfport "[t]enants can become home owners in from 13 to 21 years, depending on the speed with which they develop equity in the property." *Id.* at 15; *see* N.Y. Times, Dec. 10, 1967, § 8, at 1, col. 8. The present statute, § 15(9), appears to permit the immediate sale of units to tenants.

[107] Housing Act of 1949, § 101(c), *as amended,* 68 Stat. 623 (1954), 42 U.S.C. § 1451(c) (Supp. I, 1965).

[108] Prothro & Schomer, *supra* note 106, at 28; Note, *Government Housing Assistance to the Poor, supra* note 106, at 516.

Nathan Glazer has pointed out that, as of mid-1964, 80,070 dwelling units were completed or under construction as a result of urban renewal. The total of federal money used to accomplish this was $4.3 billion. The extraordinary per unit federal cost of urban renewal housing is therefore $53,703. Glazer, *The Renewal of Cities,* in CITIES 175, 179–80 (Scientific American 1965). In commenting on the cost and approach of urban renewal, Mr. Glazer observed:

"Suppose it is—as I believe—essential that cities radically improve their function in inspecting buildings, requiring repairs and supporting them where necessary. Suppose a major way to improve a city is to root out substandard buildings wherever they are rather than demolish a huge area that is decrepit in spots. What Federal aid would be available for that?" *Id.* at 189–90.

[109] In a condominium, expenses, such as for heat, electricity, and a superintendent, are assessed against the unit owner in proportion to the value of the unit compared to the value of the whole project. This assessment is determined in advance at an annual meeting, and the owners pay monthly installments into a maintenance fund administered by the condominium management.

The nature of a condominium is such that certain areas, such as the structural walls, roofs, elevators, halls, and even the land upon which it is built, are held as tenancy in common. Again, it is the nature of a condominium that the costs of maintaining these common facilities must be provided on a pro rata basis.

[110] Some formal management arrangement is essential; two methods are possible. The unit owners acting through their board of managers can hire a professional management company to operate the building and provide the necessary services. Alternatively, the board of managers can itself undertake the day-to-day management of the building. This latter alternative not only will result in a lower cost to the unit owner but is also consonant with the goals of a program directed both at providing reasonable low-income housing and at encouraging the political and financial sophistication of the participants.

[111] A superintendent may be hired on a full-time or part-time basis depending on the size of the building involved. Union rates for a full-time superintendent are about $150 per month.

[112] The city provides a 12-year tax exemption for increased valuation due to specified improvements of multiple dwellings. In addition, a 9-year credit is allowed against real estate taxes otherwise payable up to the extent of 8½% of the cost of the improvement per year. The overall credit cannot exceed 75% of the cost. New York, N.Y., ADMIN. CODE § J51–2.5 (1963), *as amended,* Local Law No. 57 (1966). In effect, the city pays for 75% of the cost of an improvement over a 9-year period. However, a good deal of these lucrative benefits are lost if a substantial rehabilitation is done, because the credit available during each of the 9 years will greatly exceed the taxes otherwise payable and will be lost. For purposes of the proposed program these provisions would result in a tax-exempt status for 9 years.

[113] A brief study of the *Annual Record of Assessed Valuation of Real Estate* indicates that the assessed valuation on a 20-unit slum building is in the range of $15,000–$20,000. The per-unit annual tax would therefore be between $37.50 and $50.

[114] On a larger development, fire and liability insurance costs will be substantially reduced. For example, East River Housing's (*see* note 116 *infra*) annual cost for both fire and liability insurance is slightly over $18,000 for 1,672 apartments. 1966 East River Housing Corp. Ann. Rep. 11.

[115] Fire and liability insurance cost might be reduced through some type of group coverage plan covering a large number of buildings and thereby minimizing sellers' commissions. For a discussion of the increasing industry practice of selling property insurance on a group basis, see Wall Street Journal, Nov. 30, 1967, at 1, col. 6.

[116] The maintenance estimate is supported by the experience of United Housing Foundation and its projects. United Housing Foundation is a federation of 24 housing cooperatives, trade unions, civic and neighborhood organizations, and other nonprofit groups. The Foundation has sponsored cooperatives with 15,061 units, and a cooperative under construction (Co-op City) will contain an additional 15,300 units. One Foundation project, East River Houses, constructed pursuant to the Redevelopment Companies Law, N.Y. PRIV. HOUS. FIN. LAW §§ 100–125 (McKinney 1962), contains 7,307 rooms and 1,672 units. Monthly carrying charges on a 2-bedroom apartment have averaged $77 per month since the project was completed in 1956. Excluding real estate taxes, which vary from city to city, the per-unit per-month maintenance and operating cost (including occupants' utilities) for the fiscal year ending June 30, 1966, was $34.78. Excluding electricity and gas, the monthly cost was $26.03. Included in the monthly cost are management and operating expenses, repairs and maintenance (including repainting of apartments on a 3-year cycle), certain taxes (state franchise, city general business, and payroll), and employee benefits and insurance. 1966 East River Housing Corp. Ann. Rep.; Interview with Ralph Lippman, President, East River Housing Corp., Nov. 21, 1967.

[117] The Housing and Redevelopment Board estimates operating costs for rehabilitated units at $120 per room per year for walkups and $140 per room per year for elevator apartments, HRB Rep. No. 14, *supra* note 81, at 13.

[118] *See* p. 384 *supra.*

[119] In the middle-income phase of the program, the tax and maintenance costs will probably be higher than indicated.

[120] Some of the better-known organizations working to improve housing in New York City include the WMCA Call for Action, the Metropolitan Council on Housing, The Catholic Archdiocese Committee on Housing, The Community Association of East Harlem Triangle, Christians United for Social Action, Cooper Square Group, Stuckers Bay Community Program, and the Chambers Baptist Church.

[121] The Kate Maremont Foundation has done pioneering work in this area both in New York City and Chicago. It is now working with local community groups to institute a condominium program in the Lawndale section of Chicago. *See* note 101 *supra.*

[122] Rev. Norman Eddy of the Metro-North Citizens Committee has recently spent some time with the authors of this paper discussing the prospects for a condominium program in East Harlem.

The state urban renewal statute. N.Y. GEN. MUNIC. LAW §§ 500–25 (McKinney 1965), authorizes a municipality to undertake urban renewal projects and to have the powers "necessary or convenient" to carry out such projects. *Id.* § 503. The more significant urban renewal powers are (*1*) the authority to designate a site as appropriate for urban renewal, *id.* § 504; (*2*) the authority to prepare and approve an urban renewal plan, *id.* § 505; (*3*) the authority to condemn property for urban renewal purposes, *id.* § 506(1); (*4*) the authority to dispose of property to "qualified" sponsors without public auction and without sealed bids, *id.* § 507(2)(d); and (*5*) the authority to control re-use of property by means of restrictive convenants to maintain the integrity of the plan. *Id.* § 507(3).

The statute would also permit a municipality to instittue a condominium-based program, at least for experimental purposes, without the necessity of a site designation or an approved urban renewal plan. Thus, § 503(e) provides that the municipality may:

"(e) Develop, test and report methods and techniques and carry out demonstration and other activities in relation to or in connection with one or more programs of urban renewal *or other programs relating to the arrest and prevention of conditions of deterioration or blight.*" (Emphasis added.)

In carrying out such demonstration the municipality itself may "reconstruct, repair, rehabilitate or otherwise improve" the property or sell it to a private party to effectuate the demonstration. *Id.* § 503(e). The sale may be made without public auction or sealed bids pursuant to § 507(2)(d). This provision would be most useful in situations where title is already in the municipality. *see* note 43 *supra.*

[123] The Interfaith Interracial Council of the

Clergy has instituted a low-income homeownership program in Philadelphia with minimal local government involvement. Fourteen rehabilitated homes have been sold to low-income families, the most frequent income being $3,900. Total monthly cost has been estimated at about $65. *1967 Senate Hearings, supra* note 53, at 737, 738, 744 (testimony of Interfaith Interracial Council); N.Y. Times, Oct. 1, 1967, § 8 (Real Estate), at 1, col. 6. A local organization in Boston, the Home Opportunities Foundation, has purchased and repaired a 4-family building in Dorchester. The group intends to sell the building as a condominium to persons earning less than $6,000. Boston Sunday Globe, Oct. 15, 1967, at B45, col 1. Flanner House Homes, Inc., a nonprofit corporation in Indianapolis, has provided homeownership since 1950 for some 400 low-income families ($4,200–$4,500 per year). New, prefabricated, single-family homes are provided at a monthly cost between $75 and $98. No down payment is required since the owner contributes "sweat equity" comprising 900 hours of labor. The "sweat equity" amounts to 39% of the value of the building. *1967 Senate Hearings, supra* note 53, at 729, 733 (testimony of Dr. Cleo W. Blackburn); Wall Street Journal, Nov. 13, 1967, at 1, col. 1. *See also* discussion of St. Bridgets in St. Louis at note 136 *infra*.

[124] *See* discussion of Philadelphia Housing Development Corporation in *1967 Senate Hearings, supra* note 53, at 712–13, 988–92. The background of this corporation's ownership program is discussed in the statement of Charles Abrams to the Ribicoff subcommittee. *1967 Executive Reorganization Hearings, supra* note 14, at 3441, 3443–45.

[125] *Compare* the examples discussed in J. JACOBS, THE DEATH AND LIFE OF GREAT AMERICAN CITIES 270 (1961).

[126] *See* note 44 *supra*.

[127] *See* pp. 370–72 *supra*.

[128] *See* pp. 375–79 *supra*.

[129] The Senator's program was first proposed in a speech before the Kiwanis Club of Chicago on September 15, 1966, *reprinted in* the CONGRESSIONAL RECORD, vol. 113, pt. 1, p. 166.

As previously noted, Charles Abrams has advocated homeownership ideas for some time. The "Abrams Report" made a number of substantive proposals for housing in New York City, some of which are relevant here:

"9. The public housing 'project' should no longer be the norm for public housing endeavors. New York City's share of the 35,000 units of new public housing construction authorized annually under the Housing Act of 1965 (about 3,500 per year for the city) should be primarily devoted to providing buildings, not 'self-contained' projects. The buildings should be inserted as part of existing neighborhoods, not massively superimposed upon them. They should encourage and reinforce integration where it already exists; they should help house the 'overflow' families from older buildings which are being radically rehabilitated and uncrowded; they should add to the net supply of housing by taking advantage of potential building sites now idle or grossly underused as well as replace abandoned or unsalvageable buildings that mar a neighborhood. The Housing Authority should experiment with differing types and sizes of buildings." (Housing & Urban Renewal Task Force, Report to the Mayor, Jan. 10, 1966, at 7–8 [hereinafter cited as Abrams Report].)

"11. The Housing Authority should develop programs for leasing some of its existing housing projects to nonprofit corporations as a pilot effort. Nonprofit cooperatives, foundations and institutions should be stimulated into undertaking operation and management so that ultimately a substantial part of the Authority's massive management operations might be decentralized. Progress in this direction would help meet the objection to monolithic landlordism which has been one of the deterrents to popular approval of further public housing operations.

"12. The Authority should simultaneously experiment with cooperative arrangements for its operations. Tenants in state and city projects who increase their incomes could be sold their apartments under a condominium plan. As rents of some tenants rise, the excess above the maximum rent could be deposited in escrow to be used as future down payments for the dwelling units. This would help stabilize the tenancy and reduce the way-station aspect of housing projects." (*Id.* at 9.)

"25. The city should encourage the establishment of organizations with foundation assistance for aiding and advising religious, community and other non-profit groups to sponsor limited- and non-profit housing. . . .

"26. The city should embark upon a major program of rehabilitation of all salvageable structures, and of conservation of all good and repairable structures. This program should embrace (a) radical rehabilitation (providing new and modern dwelling units within old but sound walls), (b) strict enforcement of maintenance to meet codes, and (c) as and when the housing shortage is overcome, strict enforcement of the laws against overcrowding.

"27. The emphasis in radical rehabilitation should be primarily to benefit families now living in squalor, rather than on displacing them to make way for high-income residents while the displaced families form new slums elsewhere. Radical rehabilitation and all the aids accompanying it should not be confined to renewal areas but should be employed wherever salvageable buildings are in bad condition. . . .

"29. The city's stock of 1,150,000 existing dwelling units in old masonry structures should be surveyed and reassessed in the light of the new possibilities opened up by technological advances in materials, ventilating equipment and lighting (*e.g.*, installing prefabricated kitchen equipment in tenements, providing duplexes on the third and fourth and the fifth and sixth stories for large families, etc.).

"30. The Housing Authority should be prepared to acquire salvageable structures for sale to nonprofit or limited-profit corporations for radical rehabilitation. Funds could be obtained either by its own bond issues or through other available city, state or federal sources." (*Id.* at 13–15.)

"The past record of changes, abolitions, consolidations and reorganizations of the city's housing and building agencies underscores the endless quest for a foolproof administrative mechanism. There is none, for whether the administrator be individual, board or commission, no substitute has ever been found for competence, integrity and imagination." (*Id.* at 4.)

In contrast to the substantive recommendations of the Abrams Report, a later Mayor's Task Force produced the "Logue Report," which found that "[a]ccurate data on New York City are particularly difficult to obtain." INST. OF PUB. ADMIN., STUDY GROUP ON HOUSING & NEIGHBORHOOD IMPROVEMENT, "LET THERE BE COMMITMENT," A HOUSING, PLANNING, AND DEVELOPMENT PROGRAM FOR NEW YORK CITY 9 (1966), *reprinted in 1966 Executive Reorganization Hearings, supra* note 14, at 2837–75. This report consequently recommended a procedural reorganization of the city's housing agencies. These recommendations have substantially been enacted into law by the City Council. N.Y. City Local Law No. 58 (1967).

[130] S. 1592, 90th Cong., 1st Sess. (1967).

[131] For a full discussion of the purposes of the bill, see *1967 Senate Hearings, supra* note 53, at 191–226 (testimony of Senator Percy and Congressman Widnall); *id.* at 69–82 (colloquy between Senator Percy and Secretary Weaver); *id.* at 1517–45 (explanatory statement submitted by Senator Percy); CONGRESSIONAL RECORD, vol. 113, pt. 14, p. 18037 (reply of Senator Percy to April 21, 1967, statement of Secretary Weaver).

[132] S. 1592, 90th Cong., 1st Sess. § 109(b), (d) (1967). Loans in one state may not exceed 12½% of the $2 billion total. *Id.* § 110(d). The issuance would not constitute a part of the public debt subject to statutory limits. *1967 Senate Hearings, supra* note 53, at 143–45.

[133] N.Y. Times, April 22, 1967, at 34, col. 1. For later discussions by the Secretary, see *1967 Senate Hearings, supra* note 53, at 8–12, 69–82, 91–95.

[134] Only last year the Congress enacted the Sullivan Amendment which utilizes Section 221(d)(3) for the acquisition and rehabilitation of housing for non-profit groups for resale to families of very low income. Thus we have already developed a method of achieving, without additional and burdensome administrative machinery, the home ownership objectives of the proposal.

U.S. Dept's of HUD, Statement by Robert C. Weaver, Secretary, on the Proposed National Home Ownership Foundation Act, April 21, 1967, at 7 [hereinafter cited as Weaver].

[135] (Demonstration Cities and Metropolitan Development Act of 1966, § 310(a)), 12 U.S.C. § 1715*l*(h) (Supp. II, 1965–66).

[136] The Sullivan amendment, sponsored by Congresswoman Leonor K. Sullivan (D. Mo.) is based on the experience of a small Catholic parish in St. Louis, St. Bridgets of Erin. The parish, located in a Negro slum area, has formed a nonprofit corporation, Bicentennial Civic Improvement Corp., for the purchase, rehabilitation, and resale of existing slums. Over the past 4 years, the corporation has provided ownership housing for about 70 low-income families. The owner's purchase price is financed 20% by the nonprofit corporation (at a nominal interest rate) and 80% by a local savings and loan association (15-year term at 6%). The owner's monthly payment is about $65, including amortization of his loans, insurance, and taxes. Letter from Albert J. Nerviani, Community Relations Consultant Chief, Housing Section, Dep't of Public Safety, St. Louis, Mo., to the N.Y. City Dep't of Bldgs., Dec. 13, 1966, on file in the Cornell Law Library. *See 1967 Senate Hearings, supra* note 53, at 974–87 (testimony of Bicentennial Civic Improvement Corp.).

[137] Letter from John W. Kopecky, Acting Chief, Urban Renewal Section, Office of the General Counsel, U.S. Dep't of HUD, to the N.Y. City Dep't of Bldgs., March 8, 1967, on file in the Cornell Law Library. The omnibus bill reported by the Senate Committee on Banking and Currency (*See* note 106 *supra*) would authorize § 221(h) insurance for condominiums. S. 2700, 90th Cong., 1st Sess. § 106 (1967); S. REP. No. 809, 90th Cong., 1st Sess. 17, 47 (1967).

[138] Weaver, *supra* note 134, at 1. The interest subsidy under the Percy legislation may not exceed the "average market yield to maturity on all outstanding marketable obligations of the United States." S. 1592, 90th Cong., 1st Sess. § 113(a) (1967).

[139] S. 1592, 90th Cong., 1st Sess. § 113(c) (1967).

[140] The leverage inherent in an interest subsidy has long been recognized and its use advocated by Charles Abrams. C. ABRAMS, *supra* note 56, at 258–62. *See also Hearings Before the Subcomm. on Housing of the Senate Comm. on Banking and Currency*, 85th Cong., 2d Sess. 81–86 (1958).

[141] C. ABRAMS, *supra* note 56, at 265. For a discussion of the economics of such insurance, see *id.* at 262–65; *1967 Senate Hearings, supra* note 53, at 716–17 (statement of Charles Abrams). *See also* Wall Street Journal, July 19, 1963, at 5, col. 2, discussing the Housing and Home Finance Agency report recommending study of equity insurance. A preliminary study by the insurance industry

has indicated the feasibility of such insurance. *1967 Senate Hearings, supra* note 53, at 1109–17 (testimony of J. Henry Smith and Richard Doss for Am. Life Convention, Health Ins. Ass'n of America, and Life Ins. Ass'n of America). The omnibus bill (*see* note 106 *supra*) contains a provision similar to that proposed by Senator Percy. S. 2700, 90th Cong., 1st Sess. § 108 (1967); S. REP. No. 809, 90th Cong., 1st Sess. 18–19, 48 (1967); *see id.* at 70 (individual views of Senator Percy).

[142] Weaver, *supra* note 134, at 7.

[143] *Id.* at 1.

[144] *Id.*

[145] The FNMA issued $1.1 billion worth of participation certificates at an interest rate of 5.2% on January 19, 1967. According to the most recent HUD *Annual Report*, an issuance of $150 million of secondary market debentures on October 11, 1965 was sold at an interest rate of 4.5%, 1965 HUD ANN. REP. 148 table 92. Since 1956, $6.78 billion of such debentures have been issued. The highest interest rate was 5.35% (December 10, 1959). *Id.* On November 28, 1967, the FNMA sold $1 billion worth of participation certificates at yields of 6.35% (2-year maturity) and 6.4% (20-year maturity). The rate is the highest for a long-term federal security since July 1861, when a $50 million Civil War bond issue was priced to yield 6.7%. N.Y. Times, Nov. 29, 1967, at 67, col. 4. On January 16, 1968, FNMA sold $125 billion worth of participation certificates at a yield of about 6%. N.Y. Times, Jan. 17, 1968, at 61, col. 3.

[146] The latter figure is not separately stated by Secretary Weaver, but is derived by deducting amortization and interest costs from the total figure.

[147] Abrams Report, *supra* note 129, at 10. For data on cost differential by building system, sewer line cost, and cost of common labor, skilled labor, equipment operators, electricians, mechanical trades, and plumbers, see ENGINEERING NEWS-RECORD, Sept. 21, 1967, at 92–113.

[148] See discussion of estimated rehabilitation costs at pp. 379–87 *supra*.

[149] *See* discussion on maintenance costs at pp. 387–89 *supra*.

[150] S. 1592, 90th Cong., 1st Sess. § 110(17) (1967). The term of the interest subsidy may not exceed 30 years. *Id.* § 113(a). However, at that point the owner would have sufficient equity to permit refinancing of the mortgage to secure funds to pay full interest cost.

[151] BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, POST-WORLD WAR II PRICE TRENDS IN RENT AND HOUSING IN THE NEW YORK METROPOLITAN AREA 7 (Regional Rep. No. 7, June, 1967).

[152] C. ABRAMS, *supra* note 56, at 146–47 and materials cited therein.

[153] Weaver, *supra* note 134, at 1.

[154] *See 1967 Senate Hearings, supra* note 53, at 1540 (statement of Senator Percy).

[155] Amortization would be at 1¼%, assuming the NHOF borrowing rate is 5%.

[156] Weaver, *supra* note 134, at 5.

[157] S. 1592, 90th Cong., 1st Sess. § 110(d) (1967).

[158] S. 2100, 90th Cong., 1st Sess. (1967). The testimony of Senator Kennedy on S. 2100 is found in *1967 Senate Hearings; supra* note 53, at 622–67 and *Hearings on Tax Incentives To Encourage Housing in Urban Poverty Areas Before the Senate Comm. on Finance*, 90th Cong., 1st Sess. 56–114 (1967) [hereinafter cited as *1967 Senate Finance Comm. Hearings*]. Along with his testimony before the Finance Committee on September 14th, Senator Kennedy submitted an amendment to S. 2100 which substantially revised the bill. *See id.* at 421.

[159] CONGRESSIONAL RECORD, vol. 113, pt. 14, p. 18822 (remarks of Senator Kennedy).

[160] An "urban poverty area" is an area containing at least 250,000 people which is so designated by the Bureau of Census, the Office of Economic Opportunity, and the Secretary of Housing and Urban Development, S. 2100, 90th Cong., 1st Sess. § 3(2) (1967).

[161] CONGRESSIONAL RECORD, vol. 113, pt. 14, p. 18825 (remarks of Senator Smathers). Senator Kennedy has observed that in some large cities rehabilitation is feasible at a cost between $6,500 and $7,500. In these cities the Senator believe rents of $45-$50 will be possible. *1967 Senate Finance Comm. Hearings, supra* note 158, at 62–63, 73; N.Y. Times, Oct. 2, 1967, at 46, col. 5.

[162] S. 2100, 90th Cong., 1st Sess. § 103(3) (1967). A limited exception to this rule is provided for certain displaced families. *Id.* § 103(2).

[163] N.Y. CITY COMMUNITY RENEWAL PROGRAM, NEW YORK CITY'S RENEWAL STRATEGY/1965, at 12.

[164] S. 2100, 90th Cong., 1st Sess. §§ 201–03 (1967).

[165] *Id.* § 301(a) (proposed INT. REV. CODE of 1954, § 41). Assuming the taxpayer's equity investment percentage were 100% and his total cost $1,000,000, including land cost, *id.* § 301(c) (as amended, *see* note 158 *supra*) (proposed INT. REV. CODE of 1954, §§ 1392(a)(1), 1391(9), 1391(3)), he would be permitted a credit against tax of $300,000. The credit may be carried back 3 years and forward 7 years. *Id.* (proposed INT. REV. CODE of 1954, § 1392(b)). A taxpayer's equity investment is determined by subtracting from total basis the amount of any subsidized mortgages granted under the plan. *Id.* (proposed INT. REV. CODE of 1954, § 1391(5)).

[166] *Id.* § 301(c) (as amended) (proposed INT. REV. CODE of 1954, § 1393(b)) would permit an asset having a useful life of 50 years to be depreciated over a 7-year period.

[167] *Id.* (proposed INT. REV. CODE of 1954, § 1394). The Kennedy bill, as amended, would allow a "restored" basis, after the building has been fully depreciated, in the amount of the taxpayer's cost basis reduced by the amount of straight-line depreciation computed on a 50-year useful life. *Id.* (proposed INT. REV. CODE of 1954, § 1394(b)(1)). A limited capital gain tax is payable on the restoration. *Id.* (proposed INT. REV. CODE of 1954, §§ 1394(a), 1396(d)). The owner may restore the basis at least 5 times over a 50-year period. At each restoration, the basis will be diminished by the amount of straight-line depreciation figured on a 50-year term. As a result of this provision, the allowable depreciation deduction will exceed the taxpayer's investment. That deductions exceed cost basis has been the basic objection to the percentage depletion deduction:

"When depletion goes beyond the investment in the resource, it is not a necessary or equitable or appropriate tax deduction. It is a subsidy plain and simple. If we conclude that for reasons of defense or economic growth a particular industry should be subsidized, we should be frank about it and subsidize it directly so that we can measure whether the cost of the subsidy is commensurate with the purpose. There should be no hidden subsidies in the tax laws." (Rudick, *Depletion and Exploration and Development Costs*, in 2 TAX REVISION COMPENDIUM 983) (House Comm. on Ways and Means, Comm. Print 1959).

[168] S. 2100, 90th Cong., 1st Sess. § 301(c) (1967) (proposed INT. REV. CODE of 1954, § 1393(a)). Demolition and site improvement expenses are normally added to land cost and are hence nondepreciable.

[169] Id. (proposed INT. REV. CODE of 1954, § 1391(4)); CONGRESSIONAL RECORD, vol. 113, pt. 14, p. 18824 (remarks of Senator Kennedy).

Considering all the tax advantages of the Kennedy bill, Senator Williams of Delaware prepared two hypothetical cases to demonstrate possible return to an owner over a 35-year period. Both assumed a $1 million project cost exclusive of land, that the owner contributed the entire cost, and that the owner's marginal tax rate was 50%. In Senator Williams' first hypothetical case the owner retains the property for the 35-year period and avails himself of the investment credit, accelerated depreciation, and restored basis provisions. Undersecretary of the Treasury Joseph W. Barr agreed with Senator Williams that S. 2100, as modified by Senator Kennedy's oral testimony of September 14th (*see* note 158 *supra*), would provide the owner with $2,135,000 in after-tax benefits. Additionally, the owner would still have title to the project. *1967 Senate Finance Comm. Hearings, supra* note 158, at 163, 165 (supplemental statement prepared by the Treasury Department). *See also id.* at 150–63 (colloquy between Senator Williams, Senator Kennedy, and Undersecretary Barr); *id.* at 180–89 (comparison submitted by Senator Kennedy). With the same hypothetical, the Treasury Department estimated that S. 2100, as formally amended by Senator Kennedy (*id.* at 421), would provide $1,619,000 in after-tax benefits. *Id.* at 163, 166 (supplemental statement prepared by the Treasury Department) (the figure of $161,000 at line 13, page 166 would seem to be a typographical error). *See also id.* at 249–56 (colloquy between Senator Williams and former Commissioner Caplin).

Senator Williams' second hypothetical assumed that the project would be sold at the end of each depreciation cycle and the proceeds reinvested in another qualified project. *Id.* at 155. Under this hypothetical the Treasury Department estimated an after-tax benefit of close to $4 million resulting from the bill as orally amended by Senator Kennedy. *Id.* at 163, 165 (supplemental statement prepared by the Treasury Department). After formal amendment of the bill, the Treasury Department estimated the benefits at about $2.2 million. *Id.* at 166.

[170] *1967 Senate Finance Comm. Hearings, supra* note 158, at 393–95 (statement of Lawrence M. Stone, former Treasury Department Tax Legislative Counsel).

[171] While speaking in 1963 about existing special privileges in the Internal Revenue Code, President Kennedy observed:

Some reforms will improve the tax structure by reducing certain liabilities. Others will broaden the tax base by raising liabilities and will meet with resistance from those who benefit from existing preferences. But if this program of tax reduction is aimed at making the most of our economic potential, it should be remembered that these preferences and special provisions also restrict our rate of growth and distort the flow of investment. They discourage taxpayer cooperation and compliance by adding inequities and complexities that affect similarly situated taxpayers in wholly different ways.

Hearings on Tax Revision Before the House Comm. on Ways and Means, 88th Cong., 1st Sess., pt. 1, at 12 (1963) (message of President Kennedy). Former Commissioner Mortimer M. Caplin has written in a similar vein:

Frequently tax preferences are granted as incentives of one sort or another. But is our tax law the proper vehicle for providing special incentives or subsidies? Doesn't such a legislative policy weaken our tax system and result in continuing inequities to other taxpayers? The tax law cuts across the whole fabric of our complex society. We must recognize our inability to cure all of our ailments by new variations of tax relief. If we continue to attempt this, the main function of our tax laws—the raising of revenue—is destined to fail.

Caplin, *Threats to the Integrity of our Tax System*, 44 VA. L. REV. 839, 842–43 (1958). Mr. Caplin expressed support for Senator Kennedy's bill in hearings before the Senate Finance Committee. *1967 Senate Finance Comm. Hearings, supra* note 158, at 252–61.

[172] INT. REV. CODE of 1954, § 1372(b).

[173] *Id.* § 1373(b).

[174] *Id.*

[175] *Id.* § 243(a).

[176] *I.e.*, 48% (corporate tax rate) of 15% (dividend remaining subject to tax after 85% deduction). The revenue loss with respect to rental income will not be large, since rents are limited so as to provide no more than a 3% yield on minimum equity. S. 2100, 90th Cong., 1st Sess. § 102(a) (1967). However, the sale of a project before the end of the minimum holding period or without qualified reinvestment might result in a substantial revenue loss.

[177] INT. REV. CODE of 1954, § 1371(a).

[178] Senator Kennedy has stated that he would be "very enthusiastic" about a homeownership program if a low monthly cost could be achieved. The Senator expressed this view in a colloquy with Senator Percy:

"Senator PERCY. I would just like to quote a constituent of yours, who spoke to Mayor Lindsay and myself one Sunday afternoon about a month ago. His is a low-income family from Brooklyn, and he had bought his own home after 18 years of payments. I asked him whether he preferred to pay rent or make mortgage payments. "When you're renting," he said, "you're just buying drinks for somebody else." . . .

"Senator KENNEDY. Senator, if you can tell me how you are going to get homeownership down to $70 or $80 a month under your bill, I would be very enthusiastic about it as a plan for the ghettos." (*1967 Senate Hearings, supra*, note 53, at 654.)

Senator Kennedy has explained that his plan, while initially authorizing only rental housing, will provide inducements for a possible transition to ownership housing. In his view this would avoid initially "the complex and difficult" legal and financial problems of ownership of multiple dwellings. The Senator observed:

"The home management corporation can thus become one of the focal points of community activity—an organization with a specific purpose and yet an ability to engage individual participation in a wide range of social functions.

"Ultimately, the role of the corporation in the project itself may grow from maintenance assistance to ownership; the bill provides, after an 8-year period, inducements for the owner to sell the building to his tenants. Thus the management corporations could provide a gradual transition from ordinary renting to cooperative or condominium ownership, avoiding at the outset the complex and difficult legal and financial problems of ownership of multiple dwellings." CONGRESSIONAL RECORD, vol. 113, pt. 14, p. 18825.

The inducement provided in the Kennedy bill is that the owner may sell his project to a home management corporation, S. 2100, 90th Cong., 1st Sess. § 3(7) (1967), and not recognize any gain on the transaction. As originally proposed, an 8-year waiting period was required. Id. § 301(c) (proposed INT. REV. CODE of 1954, § 1396(c)). This has been shortened, however, to a 2-year period by an amendment proposed by Senator Kennedy, *1967 Senate Hearings, supra* note 53, at 1589–90 (Letter from Senator Kennedy to Senator Sparkman, Aug. 4, 1967). The provisions concerning sale to a home management corporation were further amended at the time of Senator Kennedy's testimony before the Senate Finance Committee. *1967 Senate Finance Comm. Hearings, supra* note 158, at 77, 79–80; *see id.* at 66, 75, 83–84, 93–94. The same nonrecognition benefits will accrue to the owner if, after a 10-year period, he sells to a third party and makes a "qualified reinvestment" of the proceeds. S. 2100, 90th Cong., 1st Sess. § 301 (c) (1967) (proposed INT. REV. CODE of 1954, § 1396 (a), (b)).

As amended by the Senator's letter of August 4, 1967, *supra*, the bill provides that the home management corporation "shall, subject to the approval of the Secretary, have an option to purchase such project" at any time after the expiration of a 2-year minimum holding period. *Id.* § 101(a)(4)(G). Prior to amendment, this section provided that the home management corporation "shall have a first option to purchase." Therefore, the original language provided that the home management corporation had a first option to buy if the owner chose to sell. Under the amended language, however, if after 2 years the Secretary approves, the owner must sell. The maximum purchase price, under the August 4th amendment, was established as the principal amount of any insured mortgage and the amount of the owner's initial equity reduced by any investment credit granted to the owner. *1967 Senate Hearings, supra* note 53, at 1589. As a result of this price formulation the owner would lose the benefit of the investment credit and retain most of the benefit of accelerated depreciation taken. Since the owner could be bought out after 2 years, the August 4th amendments would have severely limited the impact of the tax benefits previously discussed. As will be discussed below, the Senator's amendments of September 14th substantially increased the purchase price which the home management corporation must pay.

The August 4th amendments, unlike the original bill, provided for a financial mechanism to enable the home management corporation to make the purchase. *Id.* at 1589–90. A new § 235(e) was proposed which would have authorized a 50-year mortgage at a below-market interest rate (the current government borrowing rate) to finance the purchase by the home management corporation. *Id.* at 1590. The apparent theory of the August 4th amendments was that a home management corporation—assisted by a 50-year below-market interest rate mortgage—could economically purchase and maintain the building.

The amendments submitted by Senator Kennedy to the Senate Finance Committee on September 14th made substantial changes in the pattern of the August 4th amendments. Initially, the option price which the home management corporation must pay is increased. The new price formulation is the total cost of the project reduced only by the amount of straight line depreciation computed over a 50-year period. S. 2100, 90th Cong., 1st Sess. § 101(a)(5)(G) (1967) (as amended). Consequently the owner will retain the benefits of the investment credit as well as accelerated depreciation. *1967 Senate Finance Comm. Hearings, supra* note 158, at 163, 166 (supplemental statement prepared by the Treasury Department). The purchase and maintenance of the building is to be financed by (*1*) a 50-year 6% mortgage, S. 2100, 90th Cong., 1st Sess. § 201 (1967) (as amended) (proposed National Housing Act § 235(a)); (2) a 5% increase in "occupancy charges," *id.* § 102(a)(2) (as amended); and (*3*) a subsidy payment paid to the home management corporation in the "amount needed" to make mortgage payments. *Id.* § 108(a) (as amended). Since the subsidy is to be paid to the corporation it would seem that the statute contemplates a cooperative, rather than a condominium form of tenant ownership. This also seems implicit in the fact that the bill contains no provision for the release of the blanket mortgage and the substitution of individual mortgages. Senator Kennedy, however, has expressed his intent that condominiums be included. *1967 Senate Finance Comm. Hearings, supra* note 158, at 60, 71.

THE CAMPUS REVOLUTIONARIES

Mr. BYRD of West Virginia. Mr. President, on several recent occasions I have termed the disorders that have been occurring on American college campuses as nothing short of revolution. Today the lead editorial in the Washington Post confirms that estimate of the situation.

Two students, writing about the recent disgraceful events at Columbia University, are quoted in the editorial as revealing that the decision to seize control of a large university was made months ago by the Students for a Democratic Society to demonstrate that a group of well-organized students could do it. "It was revolution," they are quoted as saying.

The paragraph which follows should be read and digested by every person interested in education and in the future of this country. It ends with this observation: The campus revolutionaries are "totally at war with everything this country has ever stood for."

Free speech for them, Mr. President, means free speech for them alone and the suppression of the views of anyone who happens to disagree with them—the antithesis of the true objectives of the university. The thing they are really interested in is power, and the use of power to force acceptance of their own viewpoint.

Revolutionaries, Mr. President, if they are true revolutionaries, as the editorial points out, must be prepared to take the consequences of their acts, if they fail. That is as it should be.

I ask unanimous consent that the editorial from the Post be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington, (D.C.) Post, May 14, 1968]

CRISIS ON THE CAMPUS—I

The wave of disturbances that has swept university and college campuses in the last few months ought to be deeply troubling to all Americans. It tells us that something is seriously wrong—with the students, with the educational institutions, or both—and that this something is far more serious than the disputes over the war in Vietnam or the civil rights problems that seem to trigger the disturbances. That something has two parts. One is that a small group of students are so disillusioned with the United States that they want to destroy the existing institutions although they have nothing to offer in their place. The other is that a far larger number of students are so unhappy with particular aspects of society or of education that they are willing (or naive enough) to join the game.

This view of the rebel leaders received substantial support last week from two different perspectives. David B. Truman, vice-president of Columbia University, told Newsweek magazine. ". . . It's perfectly clear from what (the rebels) do and say and what they write that they regard the universities as the soft spot in a society that they're trying to bring down." Two students, involved on the side opposing Dr. Truman at Columbia, wrote in *The New Republic* that the decision "to take physical control of a major American university this spring" was made months ago at a conference of the Students for a Democratic Society. Columbia was chosen because it was an Ivy League school, had a liberal reputation, and was situated in New York. Claiming that the demands made by the demonstrators were tailored to fit Columbia after the decision to seize it was made, the two students explain:

"The point of the game was power. And in the broadest sense, to the most radical members of the SDS Steering Committee, Colum-

bia itself was not the issue. It was revolution, and if it could be shown that a great university could literally be taken over in a matter of days by a well organized group of students then no university was safe. Everywhere the purpose was to destroy institutions of the American Establishment, in the hope that out of the chaos a better America would emerge."

Anyone who has spent much time talking with the leaders of student rebellions has a feeling these views are accurate. The rebels are out of touch with and do not understand the principles of democracy. Their heroes are the modern revolutionaries and the language they talk is that of anarchy. Freedom of speech means nothing to them except insofar as it protects their freedom to speak. The idea that differences are resolved through discussion and reason is irrelevant to them. The only thing that counts in their lexicon is power and the only way they believe power should be used is to enforce their beliefs on others. They have no doubts about the rightness and the righteousness of their views and they refuse to entertain any suggestion that they may be wrong. The historical parallels to this set of mind are only too easy to draw. It is sufficient to say that it is totally at war with everything this country has ever stood for.

It is now clear, for example, that the rebel leaders at Columbia never had any intention of negotiating a truce. They wanted what they got, forcible removal by the police, not to win their argument with the Administration but to solidify their following. Thus, the more violent the police action, the better it fit the rebels' purpose.

Confronted with this kind of mentality among leaders of student demonstrations, a university administration has little choice. It cannot tolerate students who seize offices and classrooms, hold administrators and faculty members prisoner, and rifle files and private papers. Even in their dream world, the hard-core revolutionaries on the campuses must know that a revolutionary who fails must take the consequences. And they must not succeed, for to them success is the destruction of American education.

ALBERT J. WEBBER, OREGON STATE CONSERVATIONIST

Mr. MANSFIELD. Mr. President, on behalf of the senior Senator from Oregon [Mr. MORSE], I ask unanimous consent that a statement by him concerning a staff member of the Soil Conservation Service be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MORSE

I wish to recognize an outstanding conservationist who has contributed greatly to the preservation, development, and wise management of America's soil and water resources over a period of more than 32 years on the staff of the Soil Conservation Service.

Albert J. Webber, Oregon's State Conservationist since 1964, has been awarded the coveted Superior Service Award of the U.S. Department of Agriculture "for dynamic leadership and initiative."

As with leadership in any field, Mr. Webber has demonstrated a unique ability to make productive use of people placed under his charge. Through his direction, soil and water resource conservation has advanced significantly in Oregon. He has given valuable service to the people of our State, and I am proud that he is one of us.

Mr. Webber's contributions will continue to multiply because of growing public awareness of the need to manage our resources wisely, and increasing public interest in making our resources serve as effectively as possible.

We must be sure that this concern for conservation of our natural resources continues to find expression throughout the population. It is particularly important that the youth of our country is taught the values of their rich natural inheritance.

Ours is a land of wondrous beauty, endowed with great wealth in vast forestlands, fertile soils, and abundant water supplies. We have been so generously endowed by Nature that it is easy to overlook the care required to protect and enhance this heritage. Fortunately, our Nation is blessed with the foresight, the skills, the dedication, and the leadership needed to stand up to the challenge. Albert J. Webber represents these qualities in his effective conservation leadership in Oregon. I am proud of his accomplishments, which are Oregon's also. I pledge my continued support of his valued efforts.

NATIONAL PAINTING AND DECORATING WEEK

Mr. BAYH. Mr. President, the National Painting & Decorating Contractors of America have again designated the week of June 15 through June 22, 1968, as National Painting and Decorating Week. During this time period, local chapters of this organization across the country will engage in a competitive effort by devoting their talents and materials to a "clean up, fix up" of selected deserving community facilities.

The Indianapolis chapter of the Painting & Decortating Contractors of America in concert with Painters Local No. 47 are planning to donate on June 22 the services of 100 men, 350 gallons of paint, and equipment from 16 different firms. These will be used in a 4-hour effort to completely redecorate, inside and outside, the Fletcher Place Community Center located at 410 South College Avenue in Indianapolis. It is estimated that the value of this contribution to the improvement of Indianapolis will be $5,800.

I believe that this public-spirited effort on behalf of the Indianapolis chapter and the National Painting & Decorating Contractors of America is worthy of attention.

I extend my congratulations to them and to Painters Local No. 47 of Indiana for their active contribution to the improvement of Indianapolis and Indiana.

THE 20TH ANNIVERSARY OF STATE OF ISRAEL—ADDRESS BY GOVERNOR REAGAN

Mr. MURPHY. Mr. President, the Governor of the great State of California made an excellent statement commemorating the 20th anniversary of the State of Israel at the Shrine Auditorium in Los Angeles on May 5, 1968.

I believe Governor Reagan's statement is of special importance because it continues to underline the Republican Party's continuing interest in a critical Middle East situation.

I ask unanimous consent that the transcript of Governor Reagan's speech be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

SALUTE TO ISRAEL

(Transcript of Speech by Gov. Ronald Reagan, Shrine Auditorium, Los Angeles, May 5, 1968)

Thank you very much.

We are gathered together to observe the Twentieth Anniversary of a young and tiny nation, if measured in years and square miles.

It has been a little less than a year since we faced each other in the Hollywood Bowl. We were brought together then by a concern for the fate of that nation as it underwent its "trial by fire." But, even as we met, I think all Americans acknowledged with great gratitude that that little nation, in the bloody days, had reminded us of something that is so much a part of our own heritage, and yet had been so far back in our minds of late, that it is well we should be reminded.

We should always remember, if we are to survive as a nation ourselves and fulfill God's purpose in the world, that man is not animal. He is a creature of the spirit, and there are things for which men must be willing to die.

In the year since we met, those who were then in full retreat have been re-armed by an enemy who would impose on the world his own belief that man is but a freak of nature, without a soul and born only for the ant heap. It is the way of that enemy to arm others and let others do the fighting as it relentlessly pursues its goal of world domination.

The Middle East is essential for that plan, and all the world has a stake in the Middle East. Indeed, the freedom of the world is at stake in the Middle East.

But who defends that freedom? Only that one tiny nation, born of a hunger for freedom and inspired by two decades of the taste of freedom. Those who made the desert flower have been forced to lay aside the tools of peace, and they have stood manning the ramparts "en garde" for these many months since we last met. They deserve better from us. They must be provided the weapons to match the Soviet arms now aimed at their nation's heart.

While we do this and while there is still time, there is much more we can do. We as a nation can assert the leadership the world is crying for. It should be our national purpose to bring the nations of the Middle East to the conference table and there to settle permanently the problems of refugees and the problems of boundaries.

Now, I do not suggest bringing these nations to the table by reason of our power or threats of force—that has never been our way and is not our way now. Let us, instead, conquer, for example, nuclear desalting of the oceans that touch their shores as justification for our being there. Let us bring water to meet the greatest problem of the Arab nations and bread, not bombers, for their hungry millions. And for Israel, a guarantee of their borders, as well as the sovereignty of their nation.

Israel met its challenge. It is time for us to meet ours. And let that pledge be our birthday gift to those who have reminded all of us that the price of freedom is very high, but not so costly as the loss of it.

Thank you.

WILL OUR WISDOM MATCH OUR WEALTH?—ADDRESS BY ASSISTANT SECRETARY OF COMMERCE

Mr. BAYH. Mr. President, last week, Hon. Max N. Edwards, Assistant Secretary of Commerce for Water Pollution Control, addressed the 23d Annual Industrial Waste Conference at Purdue University, Lafayette, Ind. After reviewing some of the basic issues and problems involved, Secretary Edwards made a

stirring appeal for action which could help provide a better environment for all Americans. He also stressed the fact that the conferees would play "a critical role in helping the United States prevent pollution, reduce the ecological damage which pollution creates, and more immediately to restore our damaged environment."

Heretofore, science and technology, swept along by the surge in industrial growth, has tended to rush headlong into the production of new products without a close examination of their possible environmental impact. Studies on industrial waste treatment and the dissemination of research now are contributing to a wiser and more balanced use of technological power and to a more intelligent management of water and waste.

Mr. President, although Assistant Secretary Edwards has a primary interest in the water pollution control program, he also indicated that we must protect and promote the quality of all our natural resources—air and land as well as water. He emphasized that we must not "trade air pollution involving incineration of wastes for water or land pollution by dumping the same waste on water or land." In essence, instead of a fragmented look at the pollution problem, careful examination must be made of the total system by which our industry, economy and society transforms materials from raw materials, to finished products, to use, and to ultimate disposal.

As the Nation looks toward a period in which more growth can occur than in all of our previous history, Secretary Edwards raises the question of whether we will be able to use our wealth of resources and inventiveness wisely. In other words, will our wisdom match our wealth?

Mr. President, I ask unanimous consent that the remarks of Assistant Secretary Edwards be printed in full in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

WILL OUR WISDOM MATCH OUR WEALTH?

(Remarks by Max N. Edwards, Assistant Secretary of the Interior for Water Pollution Control, before the 23d Annual Industrial Waste Conference, Purdue University, Lafayette, Ind., May 7, 1968)

I would like to start out, today, by making it unmistakably clear I intend to talk pollution, not politics. I was invited here. I did not opt for Hoosier or Boiler-maker, for football or forensics. I am not a candidate for my party's nomination. I am here on other business—to seek your vote for clean water.

However, while it is coincidental, I know, that this conference does take place on the same day as Indiana's Primary, the juxtaposition of politics and pollution is a somewhat ancient one. If, by "pollution", we refer to some state of intoxication, we are on safe ground. At the turn of the century alcohol was a concomitant of many campaigns.

If, on the other hand, by "pollution", we refer to the condition of the air and water and landscape, we are on equally safe footing. As recent Harris Polls have clearly demonstrated, the American people are very much concerned about the condition of their environment, and increasingly will be manifesting that concern at the polls. Indeed, it would not surprise me if, in days ahead, touching nature will win more votes than kissing babies, just as—and I seriously mean this—advocates of brotherhood will win out over mere champions of motherhood.

This is—it is unquestionably—a time of great social change. And so, in the future, when we talk of politics and pollution, we will be talking the perspicacity of the former, and the issue—not the proof—of the latter. Today's politician is very much attuned to the great environmental problems which our pervasive industrial society has created for itself. His ear is attuned to the noise of the jet. His eyes have seen the coming of the smoke. His heart is pulsing with the footsteps of the People's March. We are a Nation jointly caught up—at one and the same time—in crises of pollution *and* absolution.

And I, for one, believe that we, as a people, have the capacity to meet and master the challenge, and to produce a better environment and a better order than we have known.

Turning from the philosophical to the pragmatic, as the Nation's program takes hold, you have an opportunity to participate in the accelerated interest and demand for pollution control techniques, equipment, and chemicals. Both industry and government will be the market, and the former, of course, will be the manufacturer.

To give you an idea of the potential upsurge, let me cite a few highlights from the recent report on the national requirements for and the cost of treating municipal, industrial, and other wastes during fiscal years 1969 to 1973. To meet the new water quality standards, the total 5-year cost is estimated to range between $26 and $29 billion.

The cost of constructing municipal waste treatment plants and interceptor sewers is estimated at $8 billion, excluding land and associated costs. It was assumed that—with some exceptions—a conventional secondary treatment level (at least 85 percent effective removal of biochemical oxygen demand for normal domestic sewage) would prevail for treating municipal wastes in order to meet water quality standards, I hasten to point out that secondary treatment has generally been required by the States. Standards to meet the criteria of the Federal Act relate to the quality of the water, not the method of treatment.

Initial estimates indicate that $2.6 to $4.6 billion will be invested in treating and bringing industrial wastes to a level comparable to secondary treatment of municipal wastes. These estimates are based upon minimal levels of control necessary to comply with water quality standards.

Of particular interest to the waste management community and to industry is the research program operated by the Interior Department's Federal Water Pollution Control Administration.

The program involves direct, contract, and grant research to develop more efficient and economic techniques and technologies for attaining and maintaining water quality. Included are programs of grants to industry—totaling $20 million a year—to aid in finding new and improved ways to treat and prevent industrial wastes. With a more comfortable budget posture that figure should be increased significantly and I encourage you to submit your ideas and applications to FWPCA not only to take advantage of this program but to give our research experts a chance to look at anything which bears hope of shortening our road to clean water.

You will also find useful several recent reports which have been submitted to the Congress by the Federal Water Pollution Control Administration concerning national requirements and cost estimates for pollution control, and incentives to industry.

Contained in the requirements and cost estimate study are industrial waste profiles describing the source and quantity of pollutants produced by each of 10 industries: Blast Furnace and Steel Mills, Motor Vehicles and Parts, Paper Mills, Textile Mill Products, Petroleum Refining, Canned and Frozen Fruits and Vegetables, Leather Tanning and Finishing, Meat Products, Dairies, and Plastics Materials and Resins.

The profiles were designed to provide industry and government with information on costs and effectiveness, and with alternatives for dealing with industrial water pollution problems—for instance, through process changes, improved treatment, and reuse of wastes and water.

But as to our future, prescience will be more critical than mere profiles. You know, in the pressure-cooker of politics and the cauldron of commerce, there is a difficulty—and sometimes a reluctance—in facing up to causes. The effects become our preoccupation, and our study. The history of how we got some place, being less sensational than the headlines of what it is like now that we're there, is shelved and grows dusty.

The reason we have water pollution is not just that we have had the paper and pulp and chemical and steel and meat-packing industries. It is, as well, and perhaps more so, the social side of man . . . his unwillingness to recognize that natural resources are unnatural sewers, his failure to understand that when the frontier was officially declared closed, in 1890, we had crossed the last range, had forded the last undiscovered stream. And so, swept along on the surge of our growth, driven by the myth that there always would be a still-green field and a still-pure water-course, convinced that anything done was well done if it reflected itself in greater profit and a greater GNP, we failed to look before leaping.

And as part of our failure, we were reluctant to support reform government and public-interest legislation; we failed to place in office—especially at the local level—the best qualified candidates, to keep in office the best talent, to pay it the best of wages, and to see to it—through vigilance and vision—that legislation evolved from and inspired social planning.

It is not inappropriate, in this context, to digress for an instant, and—mindful of today's balloting as a precursor to November—point out that in our propensity to blame everyone else, we ignore the fact that among the great democracies, we have the poorest turn-out of eligible voters at the polls.

Now, if we are adequately to implement the water quality standards, if we are to have technological advance without cost to environmental quality, if we are to prevent and control the damage done by the wastes our economy produces, we need to look at the total pollution problem from a new perspective. Until now, we have defined pollution by its dumping ground—the air, land, and water, and also in terms of its form—gaseous, solid, and liquid. Moreover, we have organized our pollution control efforts in terms of these distinctions.

But, if our society is, in the long run, to prevent and control the waste which it generates at every step in the industrial process, we must enlarge our perspective. Instead of a fragmented look at the pollution problem we must examine the total system by which our industry, economy, and society transform energy and materials—from raw materials through to finished products—to ultimate use and then disposal. But more, we must examine the very goods and services we produce—for their possible environmental impact—before we produce them. The test ought not be, "Can we make it, mass produce it, and sell it?" That—to tell the truth—is hardly a test because with our industrial prowess and inventive genius and advertising and marketing skills, we can make and sell most anything. The test ought really be, "Will it work . . . for man?" and "What will it mean to man?"

A case in point is the SST. Here, because

we could design and make it, we began with no thought beyond blueprint and budget. We commenced because the British and French were ahead of us with their Concorde (spelled with or without that final "e" depending on whether you prefer "God save the Queen" to "La Marseillaise"). Here, because haste and speed are so much a part of our way, we plunged ahead without really knowing what the consequences of sonic booming would be, and without knowing the extent to which indirect routing—that the intolerable boom would occur over water instead of land—would so add to travel time as to cause schedules to approximate our present subsonic pace. Yet there are spokesmen in responsible perches of authority who insist that society will adjust to the sonic boom just as we have learned to live with dirty water.

Another case in point, and you will forgive me for temporarily stratifying my arguments above water level, is air pollution caused by commercial and private aircraft. Our approach to the air pollution problem is still much too fragmented. We have legislated to curb automotive exhaust, and to require controls on the smokestack exhalations of incinerators and factroies and power plants. But who is looking at and legislating for aircraft air pollution? Even beyond our present jetliners, who is looking at the small private craft whose abundance is mounting? Who is saying: is that Piper or Cessna or Beechcraft today's Model "T"? Who is saying this: we learned after half a century of automotive exhaust; now, will we apply the lessons to the coming decades of increasing aircraft exhaust? It is—after all—the same air, part of the same supply, part of the finitude we must sometimes accept.

We need to limit, manage, and control waste and pollution at each step, starting at the drawing boards. The fact we are T-square Tarzans should not cause us to live by a jungle code. We have more auto junkyards than the elephants have graveyards—and ours have not their virtue of being hidden and unobtrusive.

We have the need to reduce waste, to recover, reuse, and control the waste products created at each step in man's transformation of energy and conversion of raw materials into finished products, not matter whether the pollution threat in waste disposal is directed against the air, the land, or the water, whether the form of the waste happens to be solid, liquid, or gaseous, or whether the source is our industries, cities, farms, shipping or outdoor recreation.

We must begin now to look at our total economy—as we do with our environment—as a system. We must manage waste products and reuse or render them less dangerous at each stage in our cycles of energy and materials transformation. If the pollution problem is looked upon in this way, then the distinctions between air, water, and land—or solid, liquid, or gaseous—pollution become artificial, academic, and avoidable.

The wastes we generate at various stages in our economic processes can be transformed into solid or liquid or gaseous forms, or combinations thereof. We can, in effect, trade one type for another. We can, within limits, choose which form, which receptacle—air, land, or water—depending on questions of ecology, environment, and last (in our new order of priorities), feasibility and cost.

Today, in our research, in our actions and institutions for pollution control, we do not sufficiently consider the fact we can control one type of pollution and thereby increase another type, or, that we can protect one potential waste receiver by damaging another. We can, for instance, trade air pollution involving incineration of wastes for water or land pollution by dumping the same wastes on land or in water. Thermal pollution oftentimes may be redirected from water to air. But, in facing these questions, let us ever be cognizant of our power—through prescrience as well as conscience— to minimize much pollution through rationale decision-making on the goods and services we produce. Restraint before the fact—instead of response to failure—should consume more of our energies and resourcefulness.

The water pollution control program is now in the stage where water quality standards have been submitted and reviewed and are being negotiated, revised, and approved. The purpose of these standards is to protect high-quality waters and to upgrade polluted ones. The next stage will be the implementation of these standards through action of the Federal, State, and local levels, as well as in industry.

There will be a need to monitor and enforce standards which have been approved and to explore all the alternatives available for managing both water and waste within river basins. The States will need to look ahead, to increase their funding and personnel, to strengthen enforcement procedures, and to improve their organizations responsible for attaining municipal and industrial economic and industrial growth, but demography.

In addition to implementing and enforcing the standards currently being set, there will be needed over the years to examine, revise, and improve the standards in the light of new knowledge and changes in man's activities or population distribution. The States must look ahead at the real possibility of increasingly higher quality standards. We must—all of us—be looking ahead to see just how adequate today's water quality standards will be over the next 5, 10, or 25 years. We must study not only trends of economic and industrial growth, but demography.

This conference plays a critical role in helping the United States prevent pollution, reduce the ecological damage which pollution creates, and more immediately to restore our damaged environment.

Your research, teaching, and consulting helps us prosper economically, and at the same time, to protect and promote the quality of our natural resources—of our water, land, and air.

Your studies on industrial waste treatment problems and the dissemination of research results will help America use its technological power wisely—in a more balanced way—and to more intelligently manage its water and waste.

As you know, however, science and engineering alone cannot save us from the wrong course. Nor can they alone guide us to the most productive societal use of technological power.

We need the *vision and wisdom* of the ages. The lessons of our past must chart our course today.

Our technological power has too often created without control or thought as to consequence. It has promoted economic and population growth, but it has not fostered environmental quality. It has developed powerful new chemicals without concomitantly providing scientific and social technologies to prevent adverse effects from other use. It has developed new and efficient forms of transport—such as oil tankers—without, at the same time, adequately developing techniques and social systems to minimize the likelihood of failure. It has for immediate benefit depleted and degraded resources without regard to the resources future generations will need.

We are now trying to catch up and to restore the balance between science and technology, on the one hand, and our institutions, laws, and attitudes, on the other.

Our national clean water program is part of this effort. We hope not just to achieve stated goals, not just to create a flexible framework adequate to tomorrow's challenges, but to demonstrate most clearly and persuasively that social machinery need not be the laggard it has been. That, really, is a major part of our awareness—that the fault is not necessarily that science and industry have traveled too far too soon, but that our societal institutions have been too slow to change, too rigid to move, too reluctant to lead. This must change. The future requires no less.

Under our water pollution control program, industry and governments face great challenges. The Water Quality Act of 1965 required that standards for interstate waters be set by States by June 30, 1967—almost one year ago—and then approved by the Secretary of the Interior. These standards identify uses of waters—as for fish and wildlife, agricultural, municipal, industrial, recreational purposes—and they indicate the water quality necessary to support each use. The standards include plans for implementation, financing, and enforcement.

In 1967, all States—including the District of Columbia, Puerto Rico, and the Virgin Islands—submitted their water quality standards. More than three-fifths of the States' standards have been approved, and by June we hope—and are aiming for—at least partial approval of the balance.

That we are here means we share a common interest and a common responsibility which each of us must act to fulfill on different levels and in different ways. Automation and computers and cybernetics have taken us into a new age. We have a framework in which more growth—economic, medical, spiritual, social, human—in which more growth can occur than has occurred in all of our history.

We have great resources.

We have many times demonstrated our great resiliency.

We are inventive beyond belief.

The question now is this: How will we use our resources? To what advantage will we turn our resiliency? To what social aspirations will we direct our inventiveness?

The question now is, quite simply: Will our wisdom match our wealth?

SHELTER FOR MARCHERS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD a story from today's Washington Evening Star titled "Work Pushed on Shelters for Marchers."

There being no objection, the story was ordered to be printed in the RECORD as follows:

WORK PUSHED ON SHELTERS FOR MARCHERS—FIRST INHABITANTS SLATED TO MOVE IN AT TENT CITY TODAY

The thud of hammers wielded by Poor People's Campaigners and volunteers continued to sound around the Reflecting Pool as "Resurrection City" began to take shape for the first inhabitants, scheduled to move in later today.

The campsite at the foot of the Lincoln Memorial, where up to 3,000 demonstrators will be billeted, was dedicated yesterday by the Rev. Ralph David Abernathy, successor to the slain Dr. Martin Luther King Jr.

"We will be here in Washington until the Congress and leaders of government decide they are going to do something about poverty, unemployment and underemployment in the United States," the head of the Southern Christian Leadership Conference said.

CROWD CHANTS "FREEDOM"

As a symbolic nail was driven into a stake on the site of the first plywood-canvas structure and the crowd chanted, "Freedom, Freedom" with each stroke of the hammer, the denim-clad Abernathy declared:

"This is a nonviolent movement. We shall not destroy person or property. But we cannot guarantee anything more because we are

going to plague the pharaohs of this country until we get meaningful jobs and a guaranteed annual wage."

The federal permit authorizes SCLC to occupy the campsite until June 16, but could be extended. Abernathy also has said a number of times that mass civil disobedience may be committed after the government is given a chance to react to demonstrator's demands.

At an Education Press Association luncheon yesterday, the Rev. Andrew Young, SCLC executive vice president, gave the first indication of what specific form these acts might take. Referring to the Department of Agriculture, Young said:

"We might have to go down there and hang around that office and raise hell for a couple of weeks. . . . I just don't think the Department of Agriculture can stand 5,000 people standing outside and praying for them. . . . And, if that doesn't work, we might march around the halls or something. . . ."

"A SICK COUNTRY"

And at the luncheon, at the Pitts Motor Hotel, 14th and Belmont Streets NW., Abernathy said Dr. King wanted to "reel and rock and shake this nation until everything fell into place. . . . I want to turn it upside down and right side up. . . . This is a mean, sick country and it killed (Dr. King)."

Late yesterday, a contingent of top SCLC officials flew to Detroit when word was received about 9 p.m. that some trouble had occurred there with the Midwest contingent.

Abernathy, Young, the Rev. Hosea Williams and staff aide J. T. Johnson left for National Airport to catch a flight, but en route it was decided that Abernathy would not go for fear of missing a scheduled rally with the Northeastern contingent in Philadelphia today.

Later reports from Detroit said the trouble had been relatively minor when a brief flare-up caused police to charge a small group of marchers. There were a couple of minor injuries, according to reports.

Figures on the number of persons in the other main contingents varied, for example, from 650 to 2,000 with the Midwest group, and with the Northeast caravan from 300 to twice that number. SCLC has said about 5,000 demonstrators are ultimately expected, but also has predicted up to 150,000 will attend a mass rally on Memorial Day.

HOSTS EXPRESS CONCERN

Area churches and residents were housing the 600 campaigners here so far. But first reports of concern were heard late yesterday from some of these groups over how long they would have to continue their efforts.

Complaints also were heard about cumbersome efforts in providing food and other supplies by SCLC. One church volunteer said tonight would be the last that the group would be able to accommodate any of the demonstrators.

Officials of the chronically fund-shy SCLC remained confident today that resources would be found to finish Resurrection City and provide for its inhabitants. One top official, William Rutherford, said today that the entire campaign would require $1 million in cash and materials, of which he said about $300,000 was in hand as of Saturday. A financial planning session was scheduled here today.

"Dr. Martin Luther King launched this campaign without any funds. We are continuing the program with the same spirit and hope that the ways and means will be provided," Rutherford said today.

CARAVAN COST CITED

Other SCLC officials said that although there is a need for more financing, they are confident a steady flow of lumber and materials would be provided for the campsite.

The SCLC, according to the Rev. Bernard Lafayette, had to spend a part of the $15,000 earmarked for staff pay this month on the Memphis caravan.

Although campaign officials said yesterday that work would continue through the night on Resurrection City, crews were forced to quit about 8 p.m., because of insufficient lighting. Some 90 of 500 of the prefabricated structures to comprise the camp had been substantially completed.

Elbert Ransom, an associate director of SCLC who will be in charge of the site, said today he expected to have between 300 and 500 persons moved into the symmetrically arranged campsite by tonight, providing work today proceeds on schedule.

Ransom said workers already have begun work on sewage lines and some electrical work was done last night.

SCLC leaders had to write checks totaling $10,250 yesterday to get power service started. Pepco officials told SCLC officials it would cost $8,000 to install new utility poles and run in high tension cables with 13,000 volts of current, which must be brought almost the length of the Reflecting Pool from high power cables near 17th Street.

Another $2,500 was required as deposit for electric meters, which will be returned when the meters are turned in. Another $250 was needed to install a temporary transformer site, but searchlights failed to arrive to permit construction to continue into the night. Pepco said it hoped to have power lines in by tomorrow but said it could take until Thursday or Friday.

MAYOR VISITS SITE

District Sanitary Engineering Department officials set up emergency water fountains at the site yesterday. A District fire truck also has been permanently stationed on the grounds.

An SCLC guard who spent the chilly night at the site said today that Mayor Walter E. Washington paid a brief visit there about 9 p.m. And one of the mayor's top advisers, Julian Dugas, director of the Department of Licenses and Inspections, also toured the area yesterday, although the site is not under the city's jurisdiction.

Dugas, a carpenter's mate in the Seabees during World War II, watched the workers, mainly amateurs, struggle with the structures. "Anything that happens in this town gives me a great deal of concern," he said, adding that his main concern is that the inhabitants' huts be safe and weatherproof.

A first-aid volunteer at the site said that "what they lack in skill, the volunteers make up for in enthusiasm," noting that a few sore thumbs were the only injuries so far. About 30 journeymen and apprentice carpenters from area unions offered needed expertise as the huts went up.

Meanwhile, the symbolic mule-train, plagued incessantly by problems since last week, finally left Marks, Miss., on its way to Washington.

The 15 wagons, with about 100 demonstrators, managed to make 10 miles yesterday, fighting a broken wagon tongue and a collapsed cover. It was to head for Grenada, Miss., today.

The other Southern caravan, with about 400 persons, made it to Greenville, S.C., last night from Charleston, and was to proceed to Raleigh, N.C., today.

The Northeastern caravan held a march in Trenton, N.J., yesterday, with the participants estimated at about 2,000. They marched to the state Capitol, where the Senate adjourned and the Assembly adopted a motion welcoming them to New Jersey. Today they head for Philadelphia for the Independence Hall rally at which Mrs. King was scheduled to join Abernathy, then on to Baltimore, arriving in Washington Thursday or Friday.

OFFICIALS CONFER

In Pikesville, Md., yesterday, state and county officials met with state police to discuss "manpower availabilities and other logistical matters" in preparation for the marchers' arrival and passage through Maryland.

Representing Montgomery County was Col. James S. McAuliffe, superintendent of police, and from Prince Georges County were Deputy Police Chief Vincent Free and Gladys Spellman, chairman of the board of county commissioners.

Also on hand were officials from Anne Arundel and Howard counties.

Reportedly the marchers are to spend the night Thursday in Baltimore's Memorial Stadium.

In Washington, SCLC officials are to meet with some members of Congress tomorrow through arrangements to be made by Rep. Charles Diggs, D-Mich. Diggs, as well as Mayor Jerome Cavanagh, greeted the Midwest contingent in Detroit yesterday.

WILL A TAX HIKE CURE INFLATION?—MILTON FRIEDMAN SAYS "NO"

Mr. HARTKE. Mr. President, we will soon have before us the conference report on the excise tax bill, which now includes the surtax proposal. But some hard questions remain.

Is this a cure-all for economic ill?

Will it really achieve the goals at which it is aimed?

Specifically, will it cure the inflation which is given as its prime object of attack?

My answer has long been "No," from the very day after the President made his proposal, when I set forth my objections and the reasons for them in a Senate speech. I again voiced my reasons and set forth my position when the current bill was debated in the Senate a few weeks ago. That position is one in which some distinguished economists join me—not all of them take the position of the Council of Economic Advisers.

One of the distinguished economists who agrees with me on this issue is Prof. Milton Friedman, widely known as a conservative. Dr. Friedman has been a Fulbright lecturer at Cambridge University, is widely known for his articulate writings, and for several years has been the Paul Snowden Russell Professor of Economics at the University of Chicago. In a column appearing in the May 13 Newsweek, Professor Friedman writes of his reservations about this "miracle drug" for the economy. Specifically, he says that to stem inflation by this means would require not a $10 billion but a $30 billion reduction, and that there is no proven relation between tax changes and total spending, which is supposed to result in curbing inflation. In fact, studies tend rather to refute any correlation and to "confirm the view that the relation is uncertain and erratic."

Mr. President, I ask unanimous consent that Professor Friedman's views, as set forth in the article, "Taxes: The Hard Sell," may appear in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, May 13, 1968]

TAXES: THE HARD SELL

(By Milton Friedman)

Madison Avenue puffing of commercial products sounds like British understatement

compared with the current campaign for a tax increase.

Does the economy have an ill? A tax increase is just the pill. Are prices rising too fast? Just raise taxes. Is the construction industry being hurt by high interest rates? Just raise taxes. Are foreign payments out of balance? Just raise taxes. Are restrictions on foreign investment too burdensome? Just raise taxes. And, goes the advertising pitch, "virtually all experts agree."

What is the miracle drug that will solve all these problems? Has it been tested sufficiently to win certification from Pure Food and Drugs? Does it have any side effects? Just who are the experts who speak in a single voice? Are they, by any chance, the same ones who told us in 1963 that the way to solve the balance-of-payments deficit was to cut taxes?

The proposed 10 per cent surcharge would yield about $10 billion per year when fully effective—from an $800 billion economy. Prices are now rising at a rate of more than 4 per cent per year. Just to eliminate the inflationary pressure require cutting attempted spending by more than $30 billion a year, without counting the additional reduction required to release resources for construction, exports and foreign investment.

EFFECTS ON SPENDING

How can a $10 billion tax increase produce such prodigies?

Some $3 billion would come from corporations. This might induce them to cut somewhat their spending for new investment. But the effect would be small. Corporations invest for the long pull, and would borrow to finance promising investment—especially if the tax increase lowered the interest rate at which they could borrow.

The remaining $7 billion would come from individuals. Here the effect on spending might be larger per dollar of taxes, though, if the claim that the tax increase will be temporary were taken seriously, most of the effect might be on saving, not on consumer spending.

Any initial cuts in spending would reduce the incomes of others, who in turn might cut their spending, and so on *ad infinitum*, so the total effect on this score would be larger that the initial effect.

However, these effects on corporations and consumers are only one side of the account. If the government collects more in taxes, it needs to borrow less. Every dollar less that is left in the hands of taxpayers means a dollar more that is left in the hands of whoever would have purchased the government securities to finance the deficit. That dollar is available to pay the surcharge, or to spend, or to lend to someone else to spend.

WHERE IS THE EVIDENCE?

That is why a tax increase, with unchanged government spending, would tend to reduce interest rates—which would encourage additional spending on construction, business investment, and the like. This additional spending would offset, at least in part, any reduction in spending by taxpayers.

There is still likely to be a net effect on spending because the lower interest rates may induce some people to hold more cash than they otherwise would.

Ten billion dollars is a lot of money. If not matched by extra government spending (a big *if*), it would have a sizable effect on the deficit. But by itself, it would not even come close to offsetting present inflationary forces.

Perhaps I am wrong. Perhaps a tax increase is such potent medicine that every tax dollar will reduce spending by $4 or $5. In that case, there should be evidence from past experience. After all, we have had tax increases and decreases before.

Where is the evidence? Have well-documented studies of past experience revealed a close, dependable and multiplied effect of changes in government taxes and expenditures on total spending? Not so far as I know. On the contrary, the attempts I know of to find such a relation have failed and tend rather to confirm the view that the relation is uncertain and erratic.

Personally, I oppose a tax increase for reasons that I have spelled out in earlier columns. But whether you favor or oppose a tax increase you should know that no convincing evidence—from economic analysis or from historical experience—has yet been presented to support the extravagant claims that have been made for a tax increase.

Is it too much to ask that we apply the same standards of evidence to alleged cures for inflation as to alleged cures for cancer?

THE JOHNSON ADMINISTRATION CREDIBILITY GAP

Mr. HATFIELD. Mr. President, with other Senators I have spoken in the Chamber and accused the Johnson administration of not being candid with the American people concerning the war in Vietnam. Our criticism, I believe, has been valid. But seldom have I seen this "credibility gap" revealed with such incisiveness as it is in a pamphlet prepared by Mr. Rodney Driver, of Albuquerque, N. Mex. Mr. Driver has painstakingly researched and presented the administration's many myths about our commitment in Southeast Asia and then given the reader a view of Vietnam that comes much closer to reality.

I ask unanimous consent that Mr. Driver's pamphlet, entitled "Misinformation about Vietnam," be printed in the RECORD.

There being no objection, the pamphlet was ordered to be printed in the RECORD, as follows:

MISINFORMATION ABOUT VIETNAM

(The expression "credibility gap," as part of the American language, indicates a public awareness that the Johnson Administration has not always been quite candid about Vietnam.

(But few people yet fully realize the magnitude of the problem . . . I certainly didn't for a long time. It was only after hearing several similar accounts of gross misrepresentations that I felt obliged to check some primary references myself.

(Having started this, one is led from one item to another—until he is suddenly struck with the alarming realization that his government has been misleading him time and time again.

(Disconcerting as this discovery may be, it is vital in a democracy that people should find out what is going on.

(Such was the motivation for this pamphlet.

(Compiled herein (in bold-face type) are just a few typical statements on Vietnam by the Johnson Administration. These are accompanied by other contradictory information (and more important) with detailed references.

(My hope is that you will be sufficiently disturbed by the resulting contradictions to want to find out for yourself. (Rodney D. Driver, January, 1968.))

REFERENCES

Among the finest short general-background documents is The War in Vietnam, by the Staff of the Senate Republican Policy Committee, April 1967. Available as a Congressional Record reprint (May 9, 67, pp. S 6572–6585) from Sen. Bourke Hickenlooper (free), or, in booklet form, from Public Affairs Press, 419 New Jersey Ave. S.E., Washington, D.C. 20003 ($1.00).

One of the best periodicals for a continuing, carefully-documented analysis of myths about Vietnam and other subjects is I. F. Stone's Weekly, 5618 Nebraska Ave. N.W., Washington, D.C. 20015. Subscription: $5.00 per year.

In the present paper, the following abbreviations are used for frequently-cited references:

"Aggression From the North": Dept. of State Publication 7839, Feb. 1965. Also known as the "1965 White Paper."

CR: Congressional Record.

"Draper: Abuse of Power," by Theodore Draper, Viking Press, Apr. 1967. Available in paper back, $1.95.

DS Bull: U.S. Department of State Bulletin—the official weekly record of U.S. foreign policy.

"Gettleman: Vietnam; History, Documents, and Opinions on a Major World Crisis," ed. by M. E. Gettleman, Fawcett, 1965. Available in paper back, 95¢.

NYT: The New York Times. On microfilm in larger libraries. Many smaller libraries, which do not keep the Times, do keep the New York Times Index which contains much information itself.

"Why Vietnam": U.S. Government Publication, Aug. 20, 1965. U.S. Government Printing Office, Washington, D.C., 30¢

Most of the references cited are available in any moderate-sized library, and most of the material presented is also available in other sources besides those listed. For example: The Administration statements, which I quote from Department of State sources where possible, can usually also be found in the NYT, and many are in Gettleman.

The AP and UPI dispatches taken from the Albuquerque papers can also be found in other papers. And dispatches from the Albuquerque Tribune marked S–H can be found in other Scripps-Howard papers.

THE 1954 GENEVA ACCORDS

President Johnson and Secretary of State Rusk have repeated over and over again that the very basis for our involvement in Vietnam is that one country (called North Vietnam) has attacked another (called South Vietnam). And we have come to the aid of the victim. These two countries, they say, were created in 1954: ". . . we have had one consistent aim—observance of the 1954 agreements which guaranteed the independence of South Vietnam."

Lyndon Johnson, Aug. 12, 64, DS Bull, Aug. 31, p. 299.

But the 1954 agreements—the Geneva Accords which ended the fighting between France and the Vietminh—made no mention whatsoever of an independent nation of South Vietnam. In fact they made clear that there was no intention to create two countries out of Vietnam. They referred to a "provisional military demarcation line" near the 17th parallel and to "general elections which will bring about the unification of Vietnam."

The "Final Declaration" of the Geneva Conference, for example, emphasized that "the military demarcation line should not in any way be interpreted as constituting a political or territorial boundary," and that "general elections shall be held in July 1956, under the supervision of an international commission . . . Consultations will be held on this subject between the competent representative authorities of the two zones . . ."

The texts of the 1954 Geneva Accords are given in "Documents on American Foreign Relations 1954," Harper, 1955, pp. 283–314, and in "Gettleman," pp. 137–154. The "Final Declaration" is also in DS Bull, Aug. 2, 54, p. 164.

The United States did not sign the Geneva Accords, but our government made a commitment to "refrain from the threat or the use of force to disturb them . . ."

Same three sources, on pages 316, 156, and 162 respectively.

The elections were not held. In fact the discussions called for in the "Final Declara-

tion" have not even been held. On numerous occasions in 1955 and 1956 (and later) Premier Ngo Dinh Diem of South Vietnam rejected not only the elections but even the preliminary conferences: "We did not sign the Geneva Agreements. We are not bound in any way by these Agreements . . ." he declared on July 16, 1955.

See "Gettleman," p. 193; or NYT, July 17, 1955, p. 7. For other examples, see also NYT, 1955: June 7, p. 1; July 16, p. 3; Aug. 9, p. 6; Aug. 10, p. 5; Aug. 11, p. 1; Aug. 31, p. 4; Oct. 26, p. 4; and 1956: Mar. 15, p. 12; May 13, p. 38; and Aug. 15, p. 5.

It was generally agreed that, had elections been held, Ho Chi Minh would have won overwhelmingly.

See Leo Cherne, Look, Jan. 25, 55, or Dwight Eisenhower, "Mandate for Change," Doubleday, 1963, p. 372.

In 1961, the U.S. Dept. of State issued a "White Paper" on Vietnam. Referring to the nationwide elections scheduled for 1956 under international supervision, it said, "The authorities in South Vietnam refused to fall into this well-laid trap."

"A Threat to the Peace," U.S. Dept. of State Publ. 7308, 1961.

"But we insist, and we will always insist, that the people of South Vietnam shall have the right of choice, the right to shape their own destiny in free elections in the South, or throughout all Vietnam under international supervision . . . This was the purpose of the 1954 agreements which the Communists have now cruelly shattered."

Lyndon Johnson, July 28, 1965, "Why Vietnam," p. 7. Were Diem and his friends Communists?

ORIGINS OF THE FIGHTING

"The root of the trouble in Viet-Nam is today just what it was in April and has been at least since 1960—a cruel and sustained attack by North Viet-Nam upon the people of South Viet-Nam."

Sec. of State Rusk, June 23, 65, DS Bull, July 12, p. 50.

But the matter is not that simple, even if one believed that North Vietnam and South Vietnam were two countries. During its 2000-year history, Vietnam has been invaded by the Mongols, the Chinese, the Siamese, the Spanish, the French, and the Japanese. One of the few things uniting the Vietnamese people is a strong common tradition of fighting outsiders.

The opposition to Premier Ngo Dinh Diem (whom the Vietnamese regarded as a representative of the French and the Americans) began in South Vietnam long before the dates cited by the Johnson Administration for the beginning of North Vietnam's involvement. Vietnam experts consider Diem's repressive dictatorial rule the main cause of the rebellion.

"Ngo Dinh Diem . . . is in the vanguard of those leaders who stand for freedom on the periphery of the Communist empire in Asia."

Vice President Lyndon Johnson, May 13, 1961, in a joint statement with Mr. Diem, DS Bull, June 19, p. 956.

"Diem's Presidential Ordinance No. 6 of January 11, 1956, provided for the indefinite detention in concentration camps of anyone found to be a 'danger to the state.' . . . The ordinance was followed by other repressive acts which hit harder at non-Communists than at Communists . . .

"By a presidential decree of June, 1956, Diem abolished elected village councils and mayors. This imposed directly on the Viet-Nam peasantry the dictatorial regime which he already wielded at the center. In March, 1957, the regime openly violated the last restraints placed upon it by the Geneva agreements with regard to reprisals exercised against 'former resistance members'—that is, ex-guerrillas of the Viet-Minh who had fought against the French . . ."

Bernard Fall, "Viet-Nam Witness," Praeger, 1966, Chapter 18.

"Millions of photographs, paintings and sketches of Diem . . . hang in every public office, stare down from the entrances of every public building and adorn the drab walls of peasant huts . . . Behind the facade of photographs, flags and slogans there is a grim structure of decrees, political prisons, concentration camps, milder 're-education centers,' secret police. . . . The whole machinery of security has been used to discourage active opposition of any kind from any source."

John Osborne, Life, May 13, 1957, p. 164.

"The Diem government . . . launched out in 1957 into what amounted to a series of manhunts . . . In 1958 the situation grew worse. Round-ups of 'dissidents' became more frequent and more brutal . . . the way in which many of the operations were carried out very soon set the villagers against the regime. A certain sequence of events become almost classical: denunciation, encirclement of villages, searches and raids, arrests of suspects, plundering, interrogations enlivened sometimes by torture, deportation, and 'regrouping' of populations suspected of intelligence with the rebels, etc."

Philippe Devillers, The China Quarterly (London), Jan.-Mar. 62, pp. 2–23. Reprinted in "Gettleman," pp. 210–235.

One of Diem's "political intelligence officers" explained that "they (the villagers) refuse to talk. So they have to be roughed up—or worse. After an operation of this sort, those who aren't Viet Cong already probably will be. It's a vicious circle.'"

Newsweek, May 22, 61, p. 38.

But Mr. Johnson was so impressed by Diem that he compared him to George Washington, Andrew Jackson, Woodrow Wilson, Franklin D. Roosevelt, and Winston Churchill.

Saigon Times, May 11–14, 1961. See House Republican report on Vietnam. *CR*. Aug. 25, 65, p. 21843; and *NYT*, May 13, 61, p. 1.

After Diem's brutal repression of the Buddhists, President Kennedy indicated his displeasure on Sept. 2 and Oct. 2, 1963 (*DS Bull*, Sept. 30, p. 499 and Oct. 21, p. 624). Then on Oct. 22, 1963 the U.S. cut off its support for those elements of the special forces used as Diem's security guard (*DS Bull*, Nov. 11, p. 736). Ten days later (Nov. 1) Ngo Dinh Diem, whom we had supported for ten years, was overthrown in a military coup. He and his brother Nhu were assassinated the following day.

See David Halberstam, *NYT*, Nov. 6, 63 (in *"Gentleman,"* pp. 271–281).

November 1, the anniversary of the overthrow of Diem (Lyndon Johnson's "Churchill of today") is now officially celebrated in Saigon as National Day.

DIEM'S SUCCESSORS

A succession of ten governments or juntas passed through Saigon in the next 19 months, each of them receiving an enthusiastic endorsement from the Johnson Administration.

On June 14, 1965 the military junta headed by Air Marshal Nguyen Cao Ky and General Nguyen Van Thieu came to power.

"Of the 10 generals in the junta, only one joined the Viet Minh resistance movement against the French in 1945 (not Ky or Thieu) . . . The other nine either fought on the side of the French or took training in French military schools during the Vietnamese war against the French from 1945 to 1954."

Parade magazine, June 19, 66, p. 2, in *Albuquerque Jour.* and other papers. See also *NYT*, June 11, 67, p. E 4.

"People ask me who my heroes are. I have only one—Hitler."

Marshal Ky, *Sunday Mirror* (London), July 4, 65, p. 1.

"South Vietnam's military Government warned today that penalties of death or imprisonment would be imposed for a variety of offenses ranging from 'hooliganism' to *support of neutralism*. The warning came in a decree issued by Maj. Gen. Nguyen Van Thieu . . ." (Emphasis added)

Reuters, July 23, 65, *NYT*, July 24, p. 2.

"At Da Nang, three persons were executed by a South Vietnamese firing squad . . . The three were among five persons arrested Monday during a demonstration by about 200 persons in downtown Da Nang. They were protesting crop damage from artillery fire and air strikes by U.S. forces."

Chicago Daily News (and most papers), Sept. 23, 65.

"Premier Nguyen Cao Ky . . . said his government would continue public executions 'because I think they are needed'."

AP, Albuquerque Journal, Sept. 28, 65, p. A-1.

"We are there because . . . we remain fixed on the pursuit of freedom as a deep and moral obligation . . . To defend that freedom—to permit its roots to deepen and grow . . . is our purpose in South Viet-Nam."

Lyndon Johnson, Dec. 9, 65, DS Bull, Dec. 27, p. 1014.

"Referring to earlier reports quoting him as saying Hitler was his idol, Premier Ky said this was not exactly what he meant. He said that when somebody asked him what South Vietnam needed to unify its people, he had answered a 'strong man' and had pointed out that Germany under Hitler was able to rise and grow strong. Besides, he said, amid laughter, he did not like Hitler because 'he was not handsome and not a lady-killer.'"

Reuters, NYT International Edition, Aug. 13–14, 66, p. 2.

"We saw that democracy is gaining in Viet-Nam."

Lyndon Johnson, Oct. 27, 66, DS Bull, Nov. 14, p. 738.

"FREE ELECTIONS" IN VIETNAM

"We fight for the principle of self-determination—that the people of South Viet-Nam should be able to choose their own course, choose it in free elections without violence, without terror, and without fear."

Lyndon Johnson, Jan. 12, 66, DS Bull, Jan. 31, p. 154.

On Sept. 11, 1966 elections were held for members of a Constituent Assembly:

"The government effectively ruled any outright opponents off the ballot by banning candidates considered to be Communist or neutralists.' . . . When some candidates in Saigon last week did try to criticize the military regime and raise questions about corruption Ky stepped in quickly to supress them. He said anyone who opposed the war cabinet's policies would be branded as 'traitors and henchmen of the Communists.'"

Jack Steele (S–H), Albuquerque Trib., Sept. 8, 66, p. E–2. On June 6, 66, Sen. Jacob Javits (R., N.Y.) had urged in vain that the Administration support genuinely free elections, CR, p. 11801.

The military junta continued its policy of press censorship during the campaign. And, to assure a good turnout, it spread the word that non voters could expect trouble from the police.

See, for example. Ralph Kennan, Baltimore Sun, Sept. 5, 66; Richard Critchfield, Washington Star, Sept. 3, 7, and 11; Stanley Karnow, Wash. Post, Sept. 11.

These elections "gave us a lasting lesson in democracy."

Lyndon Johnson, Sept. 13, 66, Wash. Post, Sept. 14, p. A2.

"The large turnout is to me a vote of confidence."

Lyndon Johnson, Sept. 14, 66, NYT, Sept. 15, p. 11.

In elections held on Sept. 3, 1967, Generals Thieu and Ky ran for President and Vice President. The new constitution was supposedly in effect during the election campaign:

"The Constitution secures freedom of speech and freedom of religion. It guarantees civil rights and due process of law and pro-

vides for free political expression by the press, political parties, and trade unions, as well as by individuals."

Lyndon Johnson, Mar. 20, 67, DS Bull. Apr. 10, p. 590.

"No candidate or newspaper, (Ky) said, would be permitted to 'attack the Government or members of the Government.' The Vietnam Guardian, an English-language daily newspaper that has been suspended since December, will be reinstated after the election, the Premier said. The paper was known to favor the election of one of the Premier's civilian opponents. Asked how he reconciled these policies with the abolition of censorship in the Constitution adopted on April 1, Premier Ky replied: 'There are parts of a Constitution that can be respected right away and there are others that take time.'"

R. W. Apple Jr., June 18, 67, NYT, June 19, p. 18. Despite a ban, on campaigning before Aug. 1, Marshal Ky was already using the facilities of the government for his own campaign.

If, in spite of everything, the military should lose the election, they reserved the right to overthrow the winner:

"If he is Communist or if he is a neutralist, I am going to fight him militarily. In any democratic country you have the right to disagree with the views of others."

Marshal Ky, May 13, 67, AP in NYT, May 14, p. 3; Aug. 13, p. E1.

"We are in South Viet-Nam today because we want to allow a little nation self-determination. We want them to be able to go and vote for the kind of leaders they want and select the type of government they want. We want them to be free of terror and aggression in doing that . . ."

Lyndon Johnson, June 27, 67, DS Bull, July 17, p. 59.

"One of the civilians, (Presidential candidate) Au Truong Thanh, called on the Constituent Assembly to remove General Thieu (and Ky) from the ticket because government employes and military men are required to take leave without pay when they run in the elections . . . (Mr. Thanh) is running on a peace platform."

Saigon, July 3, 67, NYT, July 4, p. 3.

"The Government has mounted a campaign to discredit Au Truong Thanh . . . 'because he is a Communist.' . . . (Mr. Thanh) served as Economic Minister in the Ky Government and in two other governments since 1963. . . A high-ranking United States official who worked closely with him said, 'I consider him one of the brighest Vietnamese I ever met, and he did a fine job.' 'No one accused him of being a Communist when he was in the government,' another American official said."

R. W. Apple Jr., July 8, 67, NYT, July 9, p. 5.

"A squad of South Vietnamese national police early today slapped handcuffs on Au Truong Thanh and drove (him) to police headquarters for questioning on allegations that he is pro-Communist and neutralist."

UPI, Albuquerque Jour., Sept. 22, 67, p. A–2.

"(On July 18) the assembly's election committee announced that it had not approved the Thieu-Ky slate . . . The move was completely unexpected and was followed quickly by an order from the ruling generals putting police and armed forces in the 3rd Military Region, which surrounds Saigon, on alert."

AP, The Denver Post, July 19, 67, p. 5.

"Gen. Nguyen Ngoc Loan, chief of the national police and a close friend of Premier Nguyen Cao Ky . . . turned up with a squad of hangers-on in the galleries of the baroque old French opera house where the assembly meets. Pistols bulged in the pockets of two of Loan's bodyguards . . . the assembly was confronted with a flood of rumors and reports that the military was prepared to act drastically if the Thieu-Ky ticket was not approved."

Raymond R. Coffey, St. Louis Post-Dispatch, July 19, 67, p. 4A. See also NYT, July 19, p. 1; or Newsweek, July 31, p. 26.

The result was that the Assembly voted to approve 11 slates, including Thieu-Ky, and to disqualify seven, including Au Truong Thanh and General "Big Minh," the hero of Diem's overthrow. Gen Minh, who lives in exile, was not permitted to return to campaign. However, he received the greatest support in a preliminary vote by the Assembly on July 2 (Saigon Post, July 3).

"My duty is to crush all disturbances of whatever origin."

Marshal Ky, Time, Aug. 11, 67, p. 25.

"It is remarkable that a young country fighting a tough war on its own soil has moved so far, so fast, toward a representative government."

Lyndon Johnson, Aug. 18, 67, NYT, Aug. 19, p. 10.

"South Vietnam's military government arrested a colonel who was actively working for a civilian presidential candidate and closed down two Saigon newspapers . . . Asked why the government chose to close the newspapers . . . the day before the election, Thieu replied: 'Even in a democracy one has the right to suppress newspapers that aid one's enemies.'"

Lee Lescaze, Sept. 2, 67, Wash. Post, Sept. 3, pp. A1, A8.

"In South Viet-Nam today, there are 11 candidates for President . . . They are free to attack the government, and most of them have done so. They are free to take their case to the people, and most of them have done so and are doing so at this hour."

Lyndon Johnson, Aug. 16, 67, DS Bull, Sept. 4, p. 290.

The runner up in the election, Truong Dinh Dzu, was one who attacked the government:

"Truong Dinh Dzu, the peace candidate who came in second in the presidential elections in September, has been under house arrest for nearly a month . . . Government authorities have declined to give any reason for Mr. Dzu's house arrest."

Bernard Weinraub, Nov. 4, 67 NYT, Nov. 5, p. 3. Actually there are thousands of political prisoners in South Vietnam. See Richard Harwood, Wash. Post, July 4, 67; or NYT, Nov. 4, 67, p. 6.

Thieu and Ky—the only military slate—"won" the election with a vote of about 35%. The remaining 65% was split among the 10 civilian slates . . . On Sept. 29, 67 the election committee of the Assembly recommended that the election of Thieu and Ky be thrown out because of "many irregularities" in the voting. But pressure from the military once again produced the desired result.

See UPI, Albuquerque Trib., Sept. 29, 67, p. A–1, and Los Angeles Times, Sept. 30, p. 2.

"I extend my warm congratulations to you and to Prime Minister Ky on your victory in the election . . . The election was a milestone along the path toward . . . a free, secure and peaceful Viet-Nam."

Lyndon Johnson to Thieu, Sept. 10, 67, DS Bull, Oct. 2, p. 421.

"This is our great adventure—and a wonderful one it is. Our business is to make history . . . it's wonderful to make it, make history in your own way and your own time."

Vice Pres. Humphrey, Oct. 31, 67, UPI, Denver Post, Nov. 1, p. 6.

THE ROLE OF NORTH VIETNAM AND CHINA

"We did not put our combat forces into South Viet-Nam because of dissident elements in South Viet-Nam. We put our combat forces in there because North Vietnamese forces moved into South Viet-Nam."

Sec. of State Rusk, Oct. 12, 67, DS Bull, Oct. 30, p. 558.

"At no stage have we wanted a larger war. But it was in November, December, January, over the turn of the year 1964–65 that North Vietnam moved the 325th Division of the regular North Vietnamese Army from North Vietnam to South Vietnam to up the ante here . . . That was before the bombing started . . ."

Sec. Rusk, Feb. 18, 66, The Vietnam Hearings," Random House, Apr. 66, p. 263. Mr. Rusk has asserted at least ten times, since Jan. 28, 66, that a whole division of the regular North Vietnamese Army was in the South before our massive involvement.

But this has been contradicted by the Defense Department, the Joint Chiefs of Staff and by Mr. Rusk himself.

"When the sharp increase in the American military effort began in early 1965, it was estimated that only about 400 North Vietnamese soldiers were among the enemy forces in the south which totaled 140,000 at that time."

Sen. Mike Mansfield (D. Mont.), CR, June 16, 66, p. 12857.

The Defense Department confirmed that it was the source of Sen. Mansfields' figures.

See Ted Knapp (S–H), Albuquerque Tribune, June 25, 66, p. A–4. For a collection of mutually contradictory official estimates of North Vietnamese involvement in early 1965 see Draper, pp. 73–82; plus Wm. P. Bundy and Rusk, DS Bull, Sept. 4, 67, p. 283, Aug. 1, 66, p 182, and Sept. 18, 67, p. 344.

By Dec. 31, 1964, there were 23,000 American troops in Vietnam.

Dept. of Defense figures, CR, Oct. 10, 66, Senate p. 24855.

"There is no evidence that the Viet Cong has any significant popular following in South Viet-Nam."

Sec. Rusk, Apr. 23, 65, DS Bull, May 10, p. 699.

But, according to official sources, enemy strength grew from an estimated 5000 in 1960 to 290,000 by July 1967, only 60,000 of which were North Vietnamese regulars. This is in spite of the fact that we claim to have killed between 200,000 and 400,000 during this same period, the lower figure being verified by "body count." By Dec. 1967 the estimate of enemy strength was raised to over 400,000.

See J. T. Wheeler (AP), Albuq. Jour., July 9, 67, p. A–5, and Hedrick Smith, NYT, Dec. 20, 67, p. 1.

". . . this is really war. It is guided by North Vietnam and spurred by Communist China."

Lyndon Johnson, July 28, 65, "Why Vietnam," p. 5.

"Now, the flow of weapons from North Vietnam consists almost entirely of the latest arms acquired from Communist China; and the flow is large enough to have entirely reequipped the Main Force units . . ."

Sec. of Defense McNamara, Aug. 4, 65, "Why Vietnam," p. 20.

But this last claim was actually contradicted by the very figures offered in 1965 as proof by the Defense and State Departments. Of the approximately 7700 weapons we captured from the guerrillas from June 1962 through Dec. 1963, only 179 (less than 2½%) were of Communist manufacture. The rest were homemade or captured French or American weapons.

Compare "Why Vietnam," p. 21, with "Aggression From the North," Appendix D. See also I. F. Stone's Weekly, Mar. 8, 65 (reprinted in "Gettleman," pp. 317–323.)

And more recently, U.S. intelligence experts have revealed the startling statistic that the Chinese have spent less on the war in 13 years than we spend every three days:

"Since 1953 the Chinese have given Hanoi only $150 million in military aid, 65% of that since August 1964."

Frederick Taylor, The Wall Street Jour., Feb. 14, 67, p. 9.

By July 1967 the estimate was raised to $200 million while the war was costing the United States about $25 billion a year.

AP, Albuquerque Tribune, July 7, 67, p. A–1.

EFFORTS TO NEGOTIATE

". . . candor compels me to tell you that there has not been the slightest indication that the other side is interested in negotiation or in unconditional discussion, although the United States has made some dozen separate attempts to bring that about."

Lyndon Johnson, July 13, 65, NYT, July 14, p. 20.

A grim, almost unbelievable, pattern has developed since Lyndon Johnson became President. Time and time again evidence of de-escalation of the fighting by the enemy or of an interest on their part in negotiating has been denied, and has been followed by new escalation of the war by the Johnson Administration. These incidents include Johnson's response to: U Thant's efforts in 1964 (finally revealed by Eric Sevareid, Look, Nov. 30, 65); Hanoi's communication during the May 1965 bombing pause; the peace feelers communicated by Italian Foreign Minister Fanfani in Nov. 1965; the lull in enemy action during the 37-day bombing pause which ended Jan. 31, 1966; and many others.

Careful documentation is given in "The Politics of Escalation in Vietnam," by Schurmann, Scott, and Zelnik, Fawcett, Oct. 66 (paper back, 60 cents); "America's Vietnam Policy, The Strategy of Deception," by E. S. Herman and R. B. Du Boff, Public Affairs Press, Aug. 66 ($2.00); and Draper.

For illustration here is just one example which is quite typical of the many instances documented in the books cited—the peace talks which did not materialize in Warsaw in December, 1966:

Late in November, 1966, Januz Lewandowski, a Polish diplomat on the International Control Commission, arranged for secret talks to be held between American and North Vietnamese representatives in December. President Johnson assigned John A. Gronouski to represent the United States.

But, on Dec. 2 and 4, U.S. planes bombed targets on the outskirts of Hanoi, the closest since June 29, 66, and

"Before any North Vietnamese representatives showed up for the meeting, U.S. planes carried out the Dec. 13–14 raids on the outskirts of Hanoi. Some planes, at least, flew directly over the heart of the city . . . It later became known in Washington that one or two planes had in fact jettisoned their bombs over the city when they were attacked . . . Shortly after the Dec. 13–14 incident (Polish Foreign Minister) Rapacki reportedly told the United States that North Vietnam had made clear it no longer was interested in the planned talk because of the bombing of Hanoi."

J. M. Hightower (AP), Denver Post, May 9, 67, p. 5; and "War/Peace Report," Mar. 67, p. 3. Almost the same thing had occurred in similar circumstances one year earlier. See Draper, p. 186.

But the sanctimonious speeches keep coming:

"I want to negotiate. I want a political solution. I want more than any human being in the world to see the killing stop but I can't just negotiate with myself. Maybe someday, somehow, sometime, somewhere, somebody will be willing to sit down at a table and talk instead of kill, discuss instead of fight, reason instead of murder and whenever they do I will be the first one at that table wherever it is."

Lyndon Johnson, Apr. 26, 67, Newsweek, May 8, p. 33.

"Look, if you think any American official is going to tell you the truth, then you're stupid. Did you hear that?—stupid."

Asst. Sec. of Defense Arthur Sylvester, July 17, 65, to newsmen in Saigon, "Dateline 1966," Overseas Press Club of America. Reprinted in "War/Peace Report, June/July, 66, p. 9.

"Certainly the charge that the Johnson administration has been trying to mislead the American people is nonsense. Is nonsense."

Sec. Rusk, Sept. 10, 67, answering Governor George Romney's charges, ABC TV "Issues and Answers," official transcript, p. 14. Similar in DS Bull, Oct. 2, p. 414.

CIVILIAN CASUALTIES

"Secretary McNamara said today he had been advised that 137 Vietnamese civilians had been killed in American military operations."

AP, Apr. 20, 66, NYT, Apr. 21, p. 18.

It is difficult to estimate civilian casualties in South Vietnam because of the long-standing custom of including dead civilians in the body count of "enemy" killed in action. But McNamara's figures are certainly wrong:

"In the South where the enemy deliberately mixes with the population, a massive toll is taken among civilians by artillery and aircraft. There are estimates that up to 5,000 casualties die each month, with 10,000 wounded . . . The American command estimates that up to 40,000 Viet Cong and North Vietnamese regulars have been slain this year alone. But the figure is known to contain a large number of civilians. After a battle, all the dead other than allied troops are counted as enemy, even women and children."

AP survey, Milwaukee Journal (and other papers) Oct. 24, 66. Official figures from the Health Ministry in Saigon indicated more than 30,000 civilian casualties in the first half of 1967 not including those in the extensive areas under Viet Cong control. San Francisco Chronicle, July 19, 67, p. 1. For the year, they estimate 100,000. AP, Albuq. Jour., Dec. 12, 67, p. A–12.

"Can you imagine what an isolated village looks like after it has been hit by over 500 750-pound bombs in a matter of seconds. Women, children, old men, cattle and every living thing is struck down . . . This particular village ceased to exist because it was in a Viet Cong dominated area and intelligence reports said it might have been used as a North Vietnamese regiment headquarters. We never found any dead soldiers but, as is the custom in Viet Cong controlled area, all the dead found in the area were listed as Viet Cong . . ."

Letter from a Marine Lieut., CONGRESSIONAL RECORD, volume 113, part 12, page 16141. See also NYT, June 6, 65, p. 1; Apr. 5, 66, p. 4; Jan. 9, 67, p. 8.

"We will use our power with restraint and with all the wisdom we can command . . . These countries of Southeast Asia are homes for millions of impoverished people."

Lyndon Johnson, Apr. 7, 65, DS Bull, Apr. 26, p. 608.

Vietnam (North and South combined) is about the size of New Mexico and has a population of about 32 million. Yet, by March 1966 we were dropping 50,000 tons of bombs per month—mostly in the South. This is greater than the average monthly tonnage dropped during World War II in the European and African theaters combined. But, by March 1967 the rate had increased to exceed that of the peak year of World War II.

See Sec. McNamara's testimony, NYT, Apr. 21, 66, p. 18; Aviation Week, Jan. 30, 67, p. 25, or James Reston, NYT, Mar. 16, 67, p. 9.

"Our burdens are heavy and will grow heavier. But the Bible counsels that we 'be not weary in well-doing.'"

Lyndon Johnson, Feb. 16, 66, DS Bull, Mar. 7, p. 364.

"In the children's ward of the Qui Nhon provincial hospital I saw for the first time what napalm does. A child of seven, the size of our four-year-olds, lay in the cot by the door. Napalm had burned his face and back and one hand. The burned skin looked like swollen, raw meat; the fingers of his hand were stretched out burned rigid. A scrap of cheesecloth covered him, for weight is intolerable, but so is air. His grandfather, an emaciated old man half blind with cataract, was tending the child. A week ago, napalm bombs were dropped on their hamlet. The old man carried his grandson to the nearest town . . ."

Martha Gellhorn, Ladies' Home Journal, Jan. 67, p. 108. See also Wm. F. Pepper, Ramparts, Jan. 67; R. E. Perry, M.D., Red book, Jan. 67; Robert Sherrod, Life, Jan. 27, 67; or David McLanahan, Sat. Review, Mar. 25, 67.

"'If they weren't V.C. what were they doing out of their area?' an American colonel justified (an air strike). He was from Denver. What was he doing out of his area?"

Nelson Algren, The Critic, Feb.-Mar. 67, p. 24.

"It is our policy to bomb military targets only."

Lyndon Johnson, Mar. 15, 67, DS Bull, Apr. 3, p. 536.

"The Air Force was dropping a variety of CBU's (cluster bomb units)—anti-personnel devices that explode over a large area, hurling shrapnel and even droplets of jellied napalm that sears into the flesh and cannot be rubbed off. The jelly must be cut out quickly with a knife."

UPI, Albuquerque Journal, June 12, 66. p. A-1.

"The FACs (forward air controllers) favor CBUs for 'recon by fire' missions. They call in a fighter to cruise along a highway or canal, dropping CBUs . . . If you see people break out and run in front of the plane, you've officially flushed some VC. You then call in a Huey or two and wipe them out . . .

"Another FAC . . . had been ordered to direct artillery against a village because 'three VC were reported there this morning.' He got over the village, he said, and looked down and all he could see were men, women and children walking around. He radioed back to the Arvins (Army of South Vietnam) . . . and told them he didn't see anybody who resembled a VC but that there were civilians in the village. Did the province chief really want this place hit? They radioed back that the province chief did, and to send the coordinates."

Frank Harvey (in the Mekong delta), Flying, Nov. 66, pp. 54–57.

". . . this fighting could be brought to an end very quickly indeed—very quickly indeed if the North Vietnamese were prepared to keep their armed forces at home and leave their immediate neighbors alone in Laos and South Viet-Nam. It's just as simple as that."

Sec. Rusk, Jan. 31, 67, DS Bull, Feb. 20, p. 275.

But 90 to 95% of the people we have killed or wounded in South Vietnam have been southerners. Some of the most devastating U.S. "search-and-destroy" operations in 1967 were carried out in the Mekong Delta and the "Iron Triangle" to destroy native South Vietnamese resistance.

U.S. statistics indicated more than half a million "enemy" killed, wounded, or captured from 1960 through June 1967 (plus civilian casualties). Yet Sec. McNamara's estimates of North Vietnamese soldiers entering the South during this period totaled at most about 110,000 of which 60,000 were still active. Compare "Why Vietnam," p. 20; NYT, Feb. 8, 67, p. 2; and J. T. Wheeler (AP), Albuq. Jour., July 9, 67, p. A–5.

"The four villages—Bensuc, Rachbap, Bungcong, and Rachkien—have in fact already ceased to exist. As they left, weeping, many of the women saw their homes put to the torch or bulldozed flat . . . 'I was very poor in my village, but I didn't mind that,' said Mrs. Le Thi Tau, 24, who is pregnant with her second child. 'I wanted to stay. Last week the fish-shaped planes flew over our fields. My husband didn't know what they were. He stood up and they shot him down and killed him. I wish I had stayed and got killed, too . . .'"

Tom Buckley, Jan. 15, 67, NYT, Jan. 16, p. 9. For a more complete account of this operation, "Cedar Falls," see Jonathan Schell, The New Yorker, July 15, 67, pp. 28 ff.

"As battle rages, we will continue as best we can to help the good people of South Vietnam enrich the condition of their life . . ."

Lyndon Johnson, July 28, 65, Why Vietnam, p. 7.

WHAT DO THE VIETNAMESE WANT?

". . . in Vietnam we are there to help the people and their Government to help themselves . . . The United States would never undertake the sacrifice these efforts require if its help were not wanted and requested."

Lyndon Johnson, Aug. 12, 65, NYT, Aug. 13, p. 1.

". . . the military junta in Saigon would not last a week without American bayonets to protect it."

Neil Sheehan, NYT Magazine, Oct. 9, 66, p. 140. This may be an exaggeration. Diem apparently lasted ten days.

"We find ourselves supporting a government of mandarins with little basis of popular support fighting for an army that has little inclination to do its own fighting."

Robert Sherrod, Life, Jan. 27, 67, p. 24.

"Desertions from the South Vietnamese army are running at the rate of 10,000 a month and are expected to total more than 400,000 by the end of the year."

Peter Arnett (AP), Albuquerque Jour., Sept. 17, 67, p. A–1. See also Jim Lucas (S–H), Albuq. Trib., Oct. 13, 66, p. F–5.

"I believe it is better to give to the American troops more of the mission of heavy fighting and more to the Vietnamese troops the mission of pacification."

Pres.-elect Thieu, Sept. 10, 67, AP, Albuq. Jour., Sept. 11, p. A–1.

"A survey of public opinion in South Vietnam . . . reported yesterday that 81% of those questioned want peace above all else. Only 4% listed victory over communism . . . The poll was organized by the Opinion Research Corporation of Princeton . . . for the Columbia Broadcasting System . . ."

AP, Gazette & Daily (York, Pa.), Mar. 22, 67. The result on this question was censored from the Saigon Post (Mar. 23, p. 1) and voluntarily omitted by most U.S. papers.

"Administration claims 5,188 South Vietnamese hamlets, with a population of eight million, are now under government control . . . But among the eight million, not all are friendly or even fully 'pacified.' U.S. officials put them in three categories: friendly (201 hamlets with 600,200 population), pacified (1,895 with four million people), and protected (3,092 with 3.5 million)." (Emphasis added.)

S-H weekly size-up. Albuq. Trib., Nov. 18, 67, p. A–1.

"If this is simply invasion from the North, why do we have to 'pacify' its victims in the South? Who ever heard of having to placate a people saved from aggression? Did we have to pacify Paris after driving the Germans out?"

I. F. Stone's Weekly, May 8, 67, p. 4.

COMMITMENT AND ESCALATION

"Three Presidents—President Eisenhower, President Kennedy, and your present President—over 11 years, have committed themselves and have promised to help defend this small and valiant nation."

Lyndon Johnson, July 28, 65, "Why Vietnam," p. 5.

"There is going to be no involvement of America in war unless it is a result of the constitutional process that is placed upon Congress to declare it. Now let us have that clear."

President Eisenhower, Mar. 10, 54, NYT, Mar. 11, p. 1.

"Under Eisenhower 700 military advisers were sent to Vietnam . . . Although Dulles and Admiral Radford wanted Eisenhower to save the French at Dienbienphu in 1954, Eisenhower refused. He considered the French position already lost, did not relish sending Americans to Vietnam to save and prolong the French colonial regime."

Parade, Dec. 26, 65, p. 2, Alb. Jour. See also Chalmers M. Roberts, The Reporter, Sept. 14, 54. In Gettleman, pp. 96–105.

"Some others are eager to enlarge the conflict. They call upon us to supply American boys to do the job that Asian boys should do. They ask us to take reckless action which might risk the lives of millions . . . Moreover, such action would offer no solution at all to the real problem of Viet-Nam. . . . Our firmness at moments of crisis has always been matched by restraint—our determination by care . . . and I pledge you that it will be so long as I am your President."

Lyndon Johnson (the peace candidate), Aug. 12, 64, DS Bull, Aug. 31, pp. 299, 300.

Then, after winning the election, Mr. Johnson escalated the war and said that the voters had given him "a direction" and that he had been "chosen by the American people to decide:"

"It was only 20 months ago that the people of America held a great national election and the people of 44 states of this union . . . gave me a direction and voted me a majority for the Presidency of this country . . . there is only one that has been chosen by the American people to decide."

Lyndon Johnson, June 30, 66, Vital Speeches of the Day, July 15, p. 582. This portion not in DS Bull, July 25, p. 119.

But it is now known that President Johnson had already planned the escalation of the war, even while he was denouncing Senator Goldwater as "reckless:"

In May 1964, Rep. Melvin R. Laird (R., Wisc.) revealed that Sec. of State Rusk had informed him of plans to carry the war to the North. Johnson gave a circuitous denial: "I know of no plans that have been made to that effect."

NYT, June 3, 64, pp. 3 and 25.

The testimony of Aug. 6, 1964 before the Senate Foreign Relations Committee on the Tonkin Gulf resolution was finally released—heavily censored—by the Administration on Nov. 24, 1966. Even what was left gives a fair idea of the planning and provocation which preceded the alleged Tonkin Gulf incident.

See I. F. Stone's Weekly, Dec. 5, 66, pp. 3, 4.

And, on Nov. 1, 1967, President Johnson admitted that as early as May 1964 he was considering the desirability of asking Congress "to join with us in deterring aggression."

NYT, Nov. 2, p. 16. For earlier evidence see Charles Roberts, LBJ's Inner Circle, Delacorte, 1965, pp. 20–22; and NYT editorial, May 20, 66, p. 46.

TOWARD WAR IN CHINA?

"A hostile China must be discouraged from aggression."

Lyndon Johnson, July 12, 66, DS Bull, Aug. 1, p. 161.

We have 500,000 troops in Vietnam. But (thus far) the Chinese have sent none and are not preparing to do so:

"I can tell you that we do not have present indication that they (the Chinese) are disposing their forces for a significant intervention in these border areas."

Sec. of State Rusk, Sept. 10, 67, DS Bull, Oct. 2, p. 415.

Of course "if 500,000 Communist Chinese troops were within 400 miles of the borders of the United States, say, in the southern part of Mexico or somewhere in Canada, and they started moving toward the borders of our country, we certainly would react very strongly, without worrying too much about whether we were wrong or right."

Sen. Thurston Morton (R. Ky.), CONGRESSIONAL RECORD, volume 113, part 10, page 12581.

"A misguided China must be encouraged toward understanding of the outside world and toward policies of peaceful cooperation."

Lyndon Johnson, July 12, 66, DS Bull, Aug. 1, p. 161.

"Two U.S. Navy jets were shot down Monday over China as American airplanes raided within six miles of Hanoi . . . The Pentagon announcement . . . was the fifth admission this year that U.S. planes might have intruded into Red Chinese air space."

UPI, Albuquerque Journal, Aug. 22, 67, p. A–1.

Question. "The President has now directed planes to bomb targets within seconds of the most populous nation on earth. Do you think that the President should seek authorization of the Congress to undertake such provocation to run such risk of war between the largest industrial nation and the most populous nation in the world?"

Under Sec. of State Katzenbach: "No."

Nicholas Katzenbach, Aug. 17, 67, NYT, Aug. 18, p. 14.

"(Congress was) given specific assurance that the Tonkin Gulf resolution was not intended to grant the unlimited sanction which, stretched to their ultimate, the words could be taken to convey . . . For the President to take advantage of the restraint and responsibility of Congress in this situation has been, I think, highly irresponsible."

Sen. Clifford Case (R., N.J.), CONGRESSIONAL RECORD, volume 113, part 20, page 26700.

"As I have repeatedly made clear, the United States intends no rashness, and seeks no wider war."

Lyndon Johnson, Aug. 5, 64, urging adoption of the "Tonkin Gulf" resolution, DS Bull, Aug. 24, p. 262.

"Your daddy may go down in history as having started World War III . . . You may not wake up tomorrow."

Lyndon Johnson, June 29, 66, to daughter Luci after ordering the first raids close to the heart of Hanoi and Haiphong, Wash. Post, May 12, 67, p. C–1. Also NYT, May 13, p. 1.

GHETTOS AND CAMPUSES

Mr. BYRD of West Virginia. Mr. President, two very sensible editorials appeared in Monday's Wall Street Journal dealing with two of the most difficult problems our Nation faces—the racial problem and the breakdown in properly constituted authority.

The first editorial, "Guilt by Verbal Association," puts the widespread improper use of the word "ghetto" into sharp focus, quoting Malcolm Muggeridge on the subject of the almost universal effort in America at present to equate Negro slums with real ghettos as they existed in Europe.

No one in this country, Mr. President, is locked up in a slum, as the use of the word "ghetto" implies. Anyone who has the ability and who is willing to make the effort can leave the slums, although he could not have left the ghetto.

The second editorial, entitled "A Better Example," draws a sharp comparison between what happened at Columbia University and the University of Denver as the result of student uprisings. Columbia caved in, while Denver stood up to the challenge, properly asserted administrative authority, and restored the rule of law quickly.

I have the highest respect for the way those charged with responsibility reacted at Denver. I am appalled by what happened at Columbia.

Mr. President, I ask unanimous consent that the two editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

GUILT BY VERBAL ASSOCIATION

That felicitous writer, Malcolm Muggeridge, is justifiably unhappy at the way other

members of his craft (and practically everyone else) are misusing the word "ghetto" in connection with race relations. His remarks are worth noting, and not just because of the fate of one small word, although that too has significance as a symptom.

"I agree with Orwell," the former editor of Punch recently wrote the New York Times, "that the maintenance of the true meaning and correct usage of words is one of the essentials of civilization, and requires our constant vigilance. Already words like 'liberation' and 'love' have become so corrupted that one scarcely dares to use them any more.

"Nor should we forget that in the days of the wartime alliance, in all the weightiest organs of Western opinion, Stalin's Russia was invariably included among the 'freedom-loving powers.' In England at this moment we are paying—and bitterly—for indulging in the linguistic pretense that we had set up a 'multiracial commonwealth' when no such thing existed. . . ."

As to "ghetto" itself, Mr. Muggeridge makes these comments:

"No sane person, I think, will wish to contradict me when I say that the ghetto, as it existed in Imperial Russia and Poland, cannot be equated with, say, Harlem today. In some respects conditions were worse, in some better; they were in no wise the same. . . .

"By equating Negro slums with a ghetto, on the one hand white racialism—in itself bad enough in all conscience—is associated with the additional horrors of Nazi anti-Semitism. On the other hand the white bourgeois champion of the Negro can see his wrongs in terms of pogroms and other distant and remote wickednesses, rather than of nearby and present social and economic inequalities."

Not only is the racial picture thus doubly distorted. In addition, the very real progress that a great many Negroes have made over the years tends to get submerged.

We realize that it is considered Pollyannaish or worse, in these days of white breast-beating, to speak of Negro progress. Yet the simple fact is that a large Negro middle class and a smaller upper class do exist; Negro publications themselves stress the rewards to businessmen of appealing to the Negro market. And this fact, along with the undeniable poverty and other ills that many suffer, is surely an important part of the whole story.

Negroes, in short, are not locked up in ghettoes in the customary connotation of the term. If a man is born in a slum, he is able to leave it, and the proof is that considerable numbers of Negroes are doing so all the time.

It should also be mentioned that the special characteristic of largely Negro areas in the past 15 years or so is not that they are uniformly grim (Harlem certainly is not). It is that slum conditions have been hugely aggravated by an invasion, the in-migration of millions of unskilled, little educated people from rural regions. Had that not occurred, it is a safe bet there would be less denunciation of ghettoes today.

Far from fencing in anybody in a ghetto, American society has tried hard to provide equal opportunities for Negroes as well as all other citizens. Our courts, our laws, the mass of public opinion, all are on the side of Negro advancement. Maybe a little credit is due, considering that the difficulties of economic improvement and genuine integration are imposing indeed. A society running ghettoes doesn't even try.

It is inadequate so far, of course; that is universally acknowledged. More than acknowledged, white people are doing things about it on their own, quite apart from the legal structure.

Increasingly they are endeavoring to involve themselves personally, somehow, in Negro problems. Business enterprises plainly are doing it, especially in the concrete sense of making a concerted effort to furnish more jobs for Negroes. Some of the efforts will be unavailing, but a people generally afflicted with a ghetto mentality would not be reacting in this fashion.

The usage and meaning of certain words almost inevitably do change with time, and the process is not always bad. What is at least unfortunate is when words are falsified in order, as Mr. Muggeridge observes, to make them serve political ends.

A Better Example

Columbia University provided one example of how to handle student demonstrations: Vacillate for a week. Finally call in the police to evict demonstrators from the buildings they hold for ransom. Resume vacillating. Call off classes for the rest of the academic year and suggest instead that students meet with professors for meditation and such.

Fortunately, a better example comes to hand from the University of Denver. Some 40 students seized the registrar's office there to support the inalienable right to change student election rules without bothering with the formalities for doing so spelled out in the student constitution.

The University dismissed the demonstrators on the spot, had them arrested for loitering and obstruction when they refused to leave, and forthrightly explained its actions afterward. Or anyway, its public relations office is sending around the remarks of Chancellor Maurice B. Mitchell. Some of them bear repeating.

"In the simplest language in which I can put it, the time has come for society to take back control of its functions and its destiny. If we condone the abandonment of the rule of law in the university, we have no right to expect those who attend it and later move into outside society to conduct themselves in any other manner.

"There is the assumption on the part of some disaffected students at the university that it is immoral for them to tolerate conditions not of their liking, and that they have some sort of moral obligation to engage in acts of defiance and violence. There is no way to prevent this, but there is every reason to hold those who engage in such practices fully responsible for the consequences of their acts.

"To those who insist that improper activities are the only answer to their problems, I have replied that the decision to engage in such activities carries with the full responsibility to accept punishment; and punishment on this campus under these circumstances and for such acts is going to be instant and sufficient to the cause."

Denver is one university, we venture to predict, not likely to be reduced to ending classes and substituting the educational insights of a semester of handwringing.

AIR FORCE TO DUMP 10 MILLION GALLONS OF "POISON" ON SOUTH VIETNAM

Mr. HARTKE. Mr. President, the use of vegetation- and crop-killing poisons in Vietnam will more than double in fiscal 1969, according to plans, over that of fiscal 1968.

Originally stressed primarily in 1962 and 1963 as a jungle defoliant, we have more and more used chemicals as a form of warfare which can destroy crops and thus breed hunger in those so deprived of their nourishment. Of more than 17,000 acres treated in 1962 only 717 were cropland; and in 1963 the cultivated acreage destroyed dropped to only 297 out of more than 34,000 acres. But in 1964 the cropland destroyed was a fifth of the total, 10,136 acres out of 53,873. The 1965 operations destroyed nearly 50,000 acres, or more than half of the 95,000 acre total, in cultivated areas. The next year the total went on up enormously—more than seven times as many acres in 1966 as in 1965. Last year we destroyed in the first 9 months alone, more than 843,000 acres—nearly 10,000 acres a month; the 121,400 acres of cropland laid waste comprised more than 170 square miles of rice paddies, sweet potatoes, vegetables, and other crops.

But that was only 9 months of crop destruction. Now we are going to really step up the pace. Instead of the $38,800,000 being spent for these poison chemicals in fiscal 1968, in fiscal 1969 the Air Force expects to spend $70,800,000. That is more than three times the amount that the United States spends out of Federal funds on the help it gives for retarded children. It is quite possible that through deprivation of food sources and the hoped-for result of starvation or malnutrition, we are actually contributing to the mental retardation of Vietnamese children. Nor can our scientists tell us what the long-range effects of thus poisoning crops and soil will be, whether when peace comes it may still be impossible for some time to raise normally abundant or uncontaminated crops on this land; and it is land which forms the heart of the basically agricultural Vietnam economy.

By the end of this calendar year, if one projects the figures, the loss of cropland will total more than half a million acres, and the total of acreage treated with destructive chemicals will exceed three and a half million acres. Part of this doubtless covers more than one application to the same area in different years. Yet I would note that 3½ million acres is three-quarters of the total encompassed by the State of New Jersey, and about a twelfth of the entire area of South Vietnam. Note also that this is our ally, South Vietnam, which we are spraying, not North Vietnam. We do it for their own good, of course.

So great will be the demand in the next fiscal year, according to an Associated Press account published in the Washington Post yesterday, that there may be a shortage of lawn and garden weedkillers for use by homeowners.

Mr. President, I ask unanimous consent that the item referred to, titled "United States To Expand Defoliation in South Vietnam," may appear in the Congressional Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

United States To Expand Defoliation in South Vietnam

The Air Force is preparing to dump 10 million gallons of vegetation- and crop-killing poison over South Vietnam in the year beginning this July, officials say.

The move represents a broadening of the chemical warfare effort to strip jungle cover from and deny food to enemy troops operating throughout the South.

And it may result in a shortage of lawn and garden weed-killers used by American homeowners. Chemical producers last year were reported strapped just to keep up with defense orders.

Air Force officials told Congress last week the chemicals required for Vietnam operations in fiscal 1969 will cost $70.8 million, an increase of $24.9 over the fiscal 1968 figure.

In 1967 the Air Force bought $38.8 million in defoliants and herbicides to spray over enemy-held or enemy-used territory in South Vietnam.

Defense Department statistics give this breakdown of acres treated with defoliants and, in parentheses, acres treated with crop-killing chemicals:

1962—17,119 (717); 1963—34,517 (297); 1964—53,873 (10,136); 1965—94,726 (49,637); 1966—775,894 (112,678); 1967—January through September only, 843,606 (121,400).

THE FOOD STAMP PROGRAM

Mr. BYRD of West Virginia. Mr. President, I have introduced a bill to place the food stamp program on a legislative base which will permit it to more effectively contribute to the elimination of hunger in this country.

The bill would:

First. Extend the food stamp appropriation authority through 1972, instead of the scheduled termination next year.

Second. Eliminate specific monetary limitations on appropriations. The act now limits the fiscal year 1969 appropriation to $225 million which, I am informed, will not be enough to adequately finance the program.

Third. Provide the Department of Agriculture with flexible authority to deal with emergency situations or unanticipated increases in participation due to rises in unemployment.

Fourth. Require a report to Congress each January forecasting needs for the ensuing calendar year. Such reporting would be helpful to the Congress in examining annual budget requests and, at the same time, it could indicate if the emergency obligation authority would be needed.

Fifth. Eliminate the restriction on the use of section 32 funds to finance part of the food stamp program cost.

Section 32 funds are derived under section 32 of the act of August 24, 1935, which provides the Department of Agriculture with a permanent annual appropriation for the general purpose of expanding farm markets.

Section 32, which provides for this purpose annually an amount equal to 30 percent of the previous year's U.S. Customs receipts, also permits the Department of Agriculture a carryover of $300 million each fiscal year.

In its fiscal year 1969 budget, for instance, the Department will have about $900 million in section 32 funds. One-third, or $300 million, represents the carryover and the rest, $600 million, equals 30 percent of the customs receipts.

There has been some objection to freeing section 32 funds to finance such programs as food stamp and school milk, based, I understand, on the argument that such moneys should be reserved for the purchase of perishable commodities to offset large crop surpluses.

I wish to point out, however, that the Department of Agriculture plans to utilize only $370 million of the section 32 money available to it in fiscal year 1969.

That leaves more than $500 million, of which $300 million would be kept as carryover to fiscal year 1970 and in excess of $200 million would be returned to the Treasury Department.

In view of the fact that the Department of Agriculture already maintains a $300 million cushion against crop surpluses, I think it appropriate that Congress be authorized to decide each year in the appropriation process whether leftover section 32 funds could better revert to the Treasury or be utilized to help do something about the serious problems of hunger and malnutrition which confront some segments of our population.

I believe that the experience with the food stamp program since 1961 demonstrates that it is a practical and prudent approach to the food problems of the poor. It is not and does not pretend to be a pie-in-the-sky solution. Rather, it makes it possible for the poor to help themselves obtain a more adequate diet and to buy food they can afford before the Federal Government steps in to help.

I think that is a second approach. And I believe needy families think so too. Responsible leaders among the poor repeatedly say they do not want charity or handouts but that they want the kind of help that will help them break the cycle of poverty.

I am aware that some groups are critical of the food stamps. They say the regulations and policies are too rigid. They say that some poor people cannot afford the cost of stamps and that some families do not get enough assistance.

I believe these criticisms should be looked at objectively. If they are found to be justified, I hope that the Congress and the Secretary of Agriculture will want to move to correct such deficiencies.

But the bill I am introducing today is designed to help States and localities plan to effectively use the program to eliminate hunger. A 4-year authorization will remove the uncertainties the States now face about the future of the program. It will let the Congress consider year-by-year the funding level required—with an annual report to the Congress—to be received in January before work starts on appropriations.

If we are to do more to feed needy families there are but two alternatives.

We can authorize the Department of Agriculture to buy food and hand it out to poor families through State or locally operated distribution facilities; or we can move to expand and improve the food stamp program, the self-help approach that uses our efficient commercial food distribution facilities.

I think the food stamp approach is the infinitely superior program. And, this conclusion is based upon a very close and continuing look at both the surplus commodity and food stamp programs in my own State. Suffice it to say that West Virginia counties now have total participation in the food stamp program.

The food stamp program has come a long way in West Virginia since the first pilot program was inaugurated in my State in the summer of 1961.

In June of that summer, there were only about 29,000 persons in four counties participating in the program.

By March of this year there were 48 counties and 122,300 persons taking part and a few weeks ago the program was extended to all 55 of West Virginia's counties.

In fiscal year 1962, the total value of food stamps issued in the State was $2.8 million. But last year that total had climbed to $17.8 million and through March of this present fiscal year the stamp value already exceeds $18 million.

Mr. President, I cannot speak too highly of the food stamp program and what it has meant to many West Virginians and other Americans in need of assistance.

The program benefits a region's economy, as well as stamp recipients. Such groups as the West Virginia Retailers Association have spoken highly of the stamp program because it benefits merchants, too—something which surplus food distribution cannot do. I believe the food stamp program is, without question, one of the better programs now operating in this country. I ask Senators to join me in support of the program and this vital legislation I have introduced.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not morning business is concluded.

NATIONAL GALLERY OF ART

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1098, S. 3159.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 3159) authorizing the trustees of the National Gallery of Art to construct a building or buildings on the site bounded by Fourth Street, Pennsylvania Avenue, Third Street, and Madison Drive Northwest, in the District of Columbia, and making provisions for the maintenance thereof.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Trustees of the National Gallery of Art are authorized to construct on the area reserved in section 1 of the "Joint resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (50 Stat. 51; 20 U.S.C. 71); that is, the area bounded by Fourth Street, Pennsylvania Avenue, Third Street, and Madison Drive Northwest, a building or buildings to serve as an addition or additions to the National Gallery of Art: *Provided, however,* That costs of such construction shall be defrayed from trust funds administered by such Trustees: *And provided further,* That the plans and specifications for such building or buildings shall be approved by the Commission of Fine Arts and the National Capital Planning Commission.

SEC. 2. Upon completion, the building or buildings erected pursuant to section 1 hereof

shall be incorporated into and become a part of the National Gallery of Art, and all provisions of the "Joint resolution providing for the construction and maintenance of a National Gallery of Art", approved March 24, 1937 (50 Stat. 51, 20 U.S.C. 71 et seq.), shall apply to such building or buildings, to the site referred to in section 1 hereof, and to the activities of the National Gallery of Art carried on in such building, or buildings, and site to the same extent as they apply to the original National Gallery of Art Building and its site and to activities carried on therein.

SEC. 3. All provisions of Public Law 206 approved October 24, 1951 (65 Stat. 634, as amended, 40 U.S.C. 193n et seq.), shall apply to the building or buildings constructed pursuant to section 1 hereof and to the site referred to in section 1 hereof which shall for such purpose be held to extend to the line of the face of the south curb of Pennsylvania Avenue Northwest, between Fourth Street and Third Street Northwest, to the line of the face of the west curb of Third Street Northwest, between Pennsylvania Avenue and Madison Drive Northwest, to the line of the face of the north curb of Madison Drive Northwest, between Third Street and Fourth Street Northwest, and to the line of the face of the east curb of Fourth Street Northwest, between Pennsylvania Avenue and Madison Drive Northwest.

SEC. 4. The Commissioner of the District of Columbia is authorized to transfer to the United States such jurisdiction as the District may have over any of the property delimited in the first section of this Act.

SEC. 5. In the event any privately owned or publicly owned utility located in the area delimited in the first section of this Act is required to be relocated or protected by reason of the construction on such area of any addition to the National Gallery of Art, such relocation or protection shall be at the expense of other than the District of Columbia.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1098), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF THE BILL

Section 1

Authorizes the Trustees of the National Gallery of Art to construct a building or buildings on the site previously reserved for such purpose by section 1 of Public Resolution No. 14, 75th Congress, approved March 24, 1937 (50 Stat. 51; 20 U.S.C. 71), that is, in the area bounded by Fourth Street, Pennsylvania Avenue, Third Street, and Madison Drive NW., to serve as an addition or additions to the National Gallery of Art: *"Provided,* That the costs of such construction shall be defrayed by private trust funds administered by such Trustees: *And provided further,* That the plans and specifications for any building or buildings shall be approved by the Commission of Fine Arts and the National Capital Planning Commission."

Section 2

Incorporates into the National Gallery of Art, on completion, the building or buildings constructed pursuant to section 1, and makes applicable to such building or buildings and the site on which they are erected the provisions of Public Resolution No. 14 to the same extent as they apply to the original National Gallery of Art Building, its site, and the activities carried on therein.

Section 3

Makes applicable to the new building or buildings and the site on which the same are constructed the police and other powers presently applicable to the National Gallery of Art and its site by the provisions of Public Law 206, approved October 24, 1951 (65 Stat. 634, as amended, 40 U.S.C. 193n et seq.).

Section 4

Authorizes the Commissioner of the District of Columbia to transfer to the United States such jurisdiction as the District may have over the property described in section 1.

Section 5

Provides against charging the District of Columbia with any cost for the relocation or protection of any privately or publicly owned utility located in or on the area described in section 1, should the same be necessary in the course of construction of any addition to the National Gallery of Art.

THE NEED

In the relatively short period of its existence, the National Gallery of Art has grown into, and is generally recognized, as one of the foremost art galleries in the world. Its collection and the educational services offered the public can no longer be housed adequately in the present building if its collection and its services are to grow and contribute to the cultural heritage and development of the people of the United States. The new building will provide additional exhibition space, room for a Center for Advanced Studies in the Visual Arts, and will facilitate the expansion of the Gallery's Extension Services to the schools of the Nation. It will also free additional space in the preseint building for exhibition purposes inasmuch as it is intended that certain administrative functions now being carried on in the present building will be transferred to the new building.

GENERAL STATEMENT

The late Andrew W. Mellon, in 1937, gave to the Nation a building and his magnificent collection for a National Gallery of Art. At the time of this gift he, President Roosevelt, and the Congress all foresaw that the Gallery would one day need to expand. Therefore, Public Resolution No. 14 of the 75th Congress, approved March 24, 1937, after providing for the acceptance of Mr. Mellon's gift and for the site on which the Gallery was to be erected, further provided that an adjoining area, bounded by Fourth Street, Pennsylvania Avenue, Third Street, and Madison Drive NW., be reserved as a site for future additions to the National Gallery of Art.

The Board of Trustees of the National Gallery is of the opinion that expansion of its facilities is necessary and desirable at this time, and that this expansion should be implemented through the construction of an additional building on the reserved site. With this in mind, the children of Andrew W. Mellon, namely, Mr. Paul Mellon, who is President of the National Gallery, and Mrs. Ailsa Mellon Bruce, in October of 1967, made an unrestricted gift to the Gallery of securities and cash, valued at approximately $20 million. This wonderful gift, together with other funds now available to the Gallery, is ample to cover the cost of the additional building; therefore, it will be constructed without cost to the taxpayers.

This addition to the National Gallery of Art will not only permit the Gallery to expand its Extension Services, which already reach some 3,000 communities throughout the 50 States, but will also house a Center for Advanced Study in the Visual Arts. The Trustees hope that the Center will serve as a meeting ground for teachers and scholars from all over the world. The stipends of Members of the Center and of the participants in its fellowship program will be met from private funds administered by the Trustees.

COMMITTEE VIEWS

In reporting S. 3159, the committee recognizes not only the need for a new building on the part of the National Gallery of Art, but also the outstanding generosity on the part of two of our citizens which makes the construction of the new building possible, without requiring the expenditure of publicly appropriated funds. The committee urges the enactment of S. 3159.

COST

This legislation authorizes no expenditure of public funds for site preparation and construction purposes. However, after the building is completed the Federal Government will be required to pay all operating and maintenance costs the same as it now does for the present National Gallery of Art Building.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from Arkansas [Mr. MCCLELLAN], who I understand has the floor, will yield to me, without losing his right to the floor, I would like to suggest the absence of a quorum.

Mr. MCCLELLAN. I yield.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. MANSFIELD. Mr. President, the leadership has endeavored to contact the many Senators who have amendments pending at the desk. The amendments number somewhere between 40 and 60.

There seems to be a lack of enthusiasm on the part of almost all the Senators to offer their amendments; the result is that the Senate is operating on a happenstance basis. We are accomplishing nothing, but engaging in a lot of conversation. Simply stated we are avoiding the issues. I believe the Senate is being placed in a most embarrassing and awkward position.

Senators have engagements elsewhere. They say they are vitally interested in this bill, but the bill simply will not wait for their convenience. I would suggest to those Senators who have amendments, whether they are running for office or not, that they postpone some of their outside engagements, remain on the Senate floor to offer their amendments and have the issues considered and disposed of one way or the other. If they do not see fit to do so, it is the intention of the leadership to bring this bill to third reading at the earliest opportunity. We

do not intend to allow the Senate to continue in the position in which it has been for the past 2 weeks.

So this is to serve notice that if sponsors of amendments do not think enough of their amendments to be on the floor to offer them and to let the Senate decide their merit, the leadership will have to take the bull by the horns, so to speak, and bring this measure to third reading at the earliest opportunity. We will not do so abruptly, of course, but we are serving notice and warning that this is the situation that confronts them and us and the Senate as a whole.

Mr. DIRKSEN. Mr. President, I do, indeed, concur and join with the majority leader in the sentiment which he has just expressed.

I have one amendment of particular significance, and I am prepared to offer it at any time. It was suggested that it be withheld for a little while because of certain considerations that were involved; but it will come along very shortly, I am sure.

My information is that 59 amendments are now pending. I did speak with some of our Members yesterday and urged that they come to the floor and offer their amendments and let us vote on them one way or the other. But I doubt whether we can go very much longer on this bill, because this is the third week.

Knowing, of course, what generally the adjournment target could be and ought to be, if it can be contrived, this is no way of advancing toward that target. So I am going to join with the majority leader, and, if at some propitious time it is possible to enter the motion for third reading of the bill, I believe it ought to be done.

Today at our policy luncheon I intend to notify all of our Members that somewhere along the line, if there is an opportunity, the motion for third reading will be made, and, if it is not objected to or if it is not challenged, we would go on with final passage of the bill.

Mr. MANSFIELD. Mr. President, I thank the distinguished minority leader. I am delighted that we see eye to eye on this particular matter. I hope what we have said will be taken to heart by those Senators who have amendments at the desk and that those amendments will be placed before the Senate as soon as possible for consideration and disposition.

Mr. McCLELLAN. Mr. President, as the coauthor of two titles of this bill which are controversial, I had hoped that amendments would be offered to these titles or that motions would be made to strike them, and that we could begin debating them and expediting them to a final vote.

I hope the leadership understands it is not the Senator from Arkansas, who is in charge of the bill, who is delaying action on these measures or on these amendments. I stand ready and willing to proceed until someone is ready to offer the amendments. I am ready for the amendments to be offered.

I think this is an important bill and every Member of this body who desires to do so should have the opportunity to discuss the overall merits and also to discuss, if he chooses, any amendment that may be offered.

This is an important bill and it should not be rushed through. However, I think we have given Senators ample time to study it and arrange to offer such amendments as they feel should be made.

Let us move along. We are going to get out a crime bill of some kind; the Senate is going to pass this measure in some form. Some things may be deleted and some things may be added, but we cannot get provisions deleted, we cannot get provisions added, and we cannot get the bill passed until amendments are offered to accomplish that result.

It is not the manager of the bill on the floor of the Senate who is delaying the bill, although I have talked about it at some length and I intend to talk about it some more. It is not my purpose in so discussing the bill to delay action with respect to the adoption or rejection of amendments that will be proposed.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. MANSFIELD. Mr. President, as the distinguished minority leader said, we are in the third week in the discussion of this bill. I can vouch for the fact that the distinguished Senator from Arkansas during all that time has been on the floor of the Senate day in and day out. I can say the same thing for the distinguished Senator from Maryland [Mr. TYDINGS], who is interested in this bill—very vitally interested. He has been here and he has tried to work out arrangements by means of which the amendments could be considered and the bill brought to a final conclusion.

Mr. President, if Senators who have offered amendments are really interested in them, I would hope that they would come to the Chamber and have them considered. There is also a possibility of obtaining a time limitation on each amendment individually—that is apparently the best we can achieve on the disposition of amendments at the moment—so that something fruitful could be attained in the way of orderly action so we would not be too far behind schedule on our way to making the August 2 adjournment—a date which I would not bet on at the moment.

I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. McCLELLAN. Mr. President, I am persuaded that the anticrime provisions of S. 917 are supported by the vast majority of American people as well as by many learned members of the bar and bench.

As strong evidence of this, the National District Attorneys Association, representing about 2,500 prosecuting attorneys in America and Canada endorsed—by formal resolution—much of the substance of the pending crime control bill.

Mr. Patrick F. Healy, executive director of the National District Attorneys Association recently forwarded me copies of resolutions adopted at his group's midwinter conference. In his letter of transmittal, Mr. Healy said:

> The National District Attorneys Association representing approximately 2,500 prosecuting attorneys throughout America and Canada recently held their Mid-Winter Conference. A series of resolutions were passed at this Conference which we feel if implemented by legislation would greatly assist the prosecutor in the discharge of his difficult duties. We are enclosing a copy of these resolutions and we strongly urge that pending legislation be acted on without undue delay or legislation be considered which would give these proposals force and effect.
>
> I need not go into the breakdown of law and order in our society today. We feel that many of the philosophies being expressed by certain individuals and groups offer serious threats to our traditional concept of a society based on order and liberty.
>
> If we may be of any assistance to you we would be only too willing to cooperate in any manner.

I would like to read in its entirety, Resolution 2 adopted by these 2,500 prosecutors:

> McCLELLAN AMENDMENTS
>
> *Be it resolved,* That the National District Attorneys Association in convention assembled hereby endorses amendments offered by United States Senator John McClellan to the Safe Streets and Crime Control Act (S. 917) as follows:
>
> 1. An amendment authorizing wire-tapping and electronic interception of communication pursuant to court order.
> 2. An amendment making voluntariness the test for admissibility of any statement, admission or confession.
> 3. An amendment restricting the jurisdiction of the United States Supreme Court to review certain decisions of state supreme courts.

Mr. President, I must say they were in error in giving me credit for amendment No. 3 to which they referred in their resolution. The distinguished Senator from North Carolina [Mr. ERVIN] is the author of that amendment which is incorporated in the bill by the Committee on the Judiciary.

Mr. President, I ask unanimous consent to have this letter from the National District Attorneys Association printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
> *Chicago, Ill., April 18, 1968.*
>
> DEAR SENATOR: The National District Attorneys Association representing approximately 2,500 prosecuting attorneys throughout America and Canada recently held their Mid-Winter Conference. A series of resolutions were passed at this Conference which we feel if implemented by legislation would greatly assist the prosecutor in the discharge of his difficult duties. We are enclosing a copy of these resolutions and we strongly urge that pending legislation be acted on without undue delay or legislation be considered which would give these proposals force and effect.
>
> I need not go into the breakdown of law and order in our society today. We feel that many of the philosophies being expressed by certain individuals and groups offer serious threats to our traditional concept of a society based on order and liberty.
>
> If we may be of any assistance to you we would be only too willing to cooperate in any manner.
>
> Very truly yours,
>
> PATRICK F. HEALY,
> *Executive Director.*
>
> Enclosure.

RESOLUTION 1: SAFE STREETS AND CRIME CONTROL

Whereas, the high incidence of crime in the United States threatens the peace, security and general welfare of the nation and its citizens; and

Whereas, the increasing rate of crime has undermined the confidence of citizens in going about their usual affairs and has impaired the freedom of the people of this country; and

Whereas, to prevent crime and to insure the greater safety of our people, law enforcement and criminal justice efforts must be better coordinated, intensified and made more effective at all levels of government; and

Whereas, the control of crime is primarily the responsibility of state and local governments; and

Whereas, additional funds are acutely needed by law enforcement and other criminal justice agencies of the state, county and city governments throughout the nation: Now, therefore, be it

Resolved, That the National District Attorneys Association urges the Congress to promptly enact legislation which will provide grants to state and local governments to assist them in up-grading their law enforcement capabilities.

RESOLUTION 2: MCCLELLAN AMENDMENTS

Be it resolved, That the National District Attorneys Association in convention assembled hereby endorses amendments offered by United States Senator John McClellan to the Safe Streets and Crime Control Act (S. 917) as follows:

1. An amendment authorizing wire-tapping and electronic interception of communication pursuant to court order.

2. An amendment making voluntariness the test for admissibility of any statement, admission or confession.

3. An amendment restricting the jurisdiction of the United States Supreme Court to review certain decisions of state supreme courts.

Mr. McCLELLAN. During the past several days I have shared with my colleagues excerpts from communications I have received from people from all walks of life from all over the country who are concerned—and in some instances, frightened, frustrated, and outraged—over the menacing threat of lawlessness which currently imperils the very safety and internal security of our Nation.

Today's list is headed by the chief justice of the Supreme Court of Pennsylvania, John C. Bell, Jr., who writes:

I enthusiastically endorse your attempts and your proposal to overturn recent Supreme Court decisions invalidating, on recently created technicalities made of straw, voluntary confessions which are made by brutal criminals. These technicalities which four Justices of the Supreme Court of the United States have declared to be unconstitutional, drastically weaken the protection of the law-abiding public from murderers, robbers, rapists and other dangerous criminals, and make a mockery of Justice.

I wonder whether the critics of the bill, particularly some of the liberal press in their editorials criticizing those of us who support the provisions, would say that this distinguished jurist is also making an attack upon the Supreme Court. I wonder whether they would say he wants to turn back to the time of the third degree methods of obtaining confessions. No, Mr. President, they would not say that about this distinguished jurist. Of course, he does not; and neither does anyone else. But this distinguished jurist, like many of them throughout the Nation, recognizes and will tell you, Mr. President, and tell me in private, that it is disgraceful what the Supreme Court is doing to this Nation of ours.

Mr. Rolland Truman, court commission, the superior court, Long Beach, Calif., writes:

All of our law-abiding citizens, including innocent children, are indebted to you for your tireless efforts to swing back the pendulum of justice to at least a middle-of-the-road course so that our U.S. Supreme Court decisions will no longer be in favor of the criminals. Your two-fisted fighting leadership in this matter is greatly appreciated.

May God bless you with success in having the Senate approve the controversial Title II of the Anti-crime bill.

The district attorney of the 20th judicial district of Louisiana sends me a copy of a letter he had addressed to a member of the other body in which he said:

I am sick and tired of watching federal judges, on any flimsy pretext, toss out hard won state court convictions of desperate criminals, the magnitude of whose crimes and the certainty of whose guilt are beyond question, because of a seemingly paranoid obsession with "due process of law" and "civil rights."

If Congress is really serious about wanting to do something about the soaring crime rate, it can begin by removing some of the shackles from local police, prosecutors and judges and placing them on the federal judiciary, beginning with the U.S. Supreme Court.

The writer of this letter, Mr. President, has been a prosecutor for the past 13 years, and prior to that practiced law and defended many criminal cases successfully. At that time, most criminal cases ended with the verdict of the jury and, certainly, with a decision by the State supreme court. But no, the prosecutor has to win before a jury, the State supreme court, the U.S. Supreme Court and then start all over running the gauntlet of every Federal judge within a hundred miles. No wonder the criminals never had it so good.

A Mr. Emmett Lawshe from New York writes:

Is there anything that can be done to offset some of the laws which have come out of the Supreme Court—laws protecting the criminal and disregarding the rights of decent citizens?

From Jefferson City, Mo., Mrs. Robert Wilson writes:

I would like to commend you on your Crime Control Bill. It is the first step that has finally been made in the right direction. I am sure it would pass if it were put to a vote of the people. I only hope that the Congress has the knowledge of how most of the people feel.

Mrs. Margaret Wallin, from Forsyth, Mont., writes:

It is high time that the citizenry of our great land take cognizance of the need for a hard line in law enforcement.

Another New Yorker writes:

In my lifetime I have seen a gradual erosion of the strength of America. In recent years this erosion seems to have accelerated. I hope we can at least arrest this drift [toward lawlessness] which could, in the end, destroy the country we love.

Mr. President, I have many other excerpts from letters received from many States. These are just a few selections. Some of the letters I have received are in tone and temper of the kind that I would not insert in the CONGRESSIONAL RECORD. The letters clearly indicate and, I think, convincingly, that there is a great distrust throughout the land regarding the Supreme Court decisions of today, which favor the criminals and disregard the rights of society.

When I say "Supreme Court decisions of today," I mean the 5-to-4 decisions which have overruled a century of precedents set by their predecessors, who acted upon and ruled upon identically the same issues and declared that the Constitution did not require all this pampering of criminals now being directed and enforced by the present Supreme Court.

There are many letters here that I could read. Let me mention the sources of some. One is from St. Louis; one is from Washington, D.C.; one is from a housewife in Idaho; another from a Pennsylvania businessman, and one from a citizen of Ohio. I do this for the RECORD so that it may reflect the letters come from all over the country.

Here is one from Oregon; another from California; from Indiana; from New York; from New Jersey; from Mississippi; from Miami, Fla.; from Baltimore, Md.; a citizen writes from Stilwell, Okla.; another one from Oklahoma; another from California; from South Carolina; another from Pennsylvania; another from Texas—on and on.

Mr. and Mrs. C. R. Mauldin from Prescott, Ark., write:

We would like to see the Congress regain the powers to make laws with penalties stiff enough to discourage such crimes. The strength of the penalties controls the desire to do crimes.

An Ohio citizen writes:

The majority of the public wonder "what goes" with our Supreme Court.

More power to you! I am sure you have the encouragement of millions of U.S. citizens.

Another citizen writes:

I want to congratulate you for your action in trying to push through the passage of a crime control bill, that would supersede several controversial Supreme Court decisions in regard to the High Court coddling criminals.

An Idaho housewife:

I would like to commend you for your courage in pushing for Senate passage of a crime control bill that would supersede several controversial Supreme Court decisions. Many, many people are very much disturbed about some of the decisions that this court has handed down. I'm sure that this court is not expressing the will of the majority of Americans.

A Pennsylvania businessman, concerned about the recent Supreme Court 5–4 decisions, writes:

I certainly hope you are successful in passing your Crime Control Bill, which would supersede some of the controversial Supreme Court decisions.

Another concerned citizen from Wisconsin writes:

I congratulate you on your stand regarding the recent (deplorable) Supreme Court rulings, which are placing our country in the

hands of the criminal element. It's time that someone does something about it, before the bottom drops out. Keep up the good work.

Here is one, Mr. President, that merely carries the AP writeup on my opening statement on S. 917, and written at the bottom is:

Thank you, Senator McClellan.

A concerned citizen from St. Louis writes:

By letting these black minority storm troopers determine the condition of the U.S., you are just encouraging disrespect of law and the representative form of political democracy.

I say this permissive liberalism must stop to save the republic. Liberalism never meant anarchy. Not to FDR or Jefferson, or any sane man.

A citizen from Missouri writes:

Our U.S. Constitution is in jeopardy, if they continue, coddling criminals and gangsters.

A group of Polish Americans from Chicago, concerned about the lawlessness in our country, write:

We want to thank you for trying to do something about the lawlessness that is threatening to wreck America.

We hope you create a real tough anti-crime law as God knows we really need it.

A Washington, D.C., man writes:

For the first time in my life I have purchased a revolver, for both myself and my wife to have handy, and I blush with shame to record the fact in a nation of such progress and plenty as the United States.

But what can the average, decent citizen do? Neither the police nor legislators take action—either being too few or afraid of losing potential votes from people who have shown themselves to be the scum of our society.

A citizen from Oregon writes the following about the lawlessness in our country:

The U.S. has plenty of laws and it is time to enforce them regardless of race, creed, or color.

Mr. President, all of this mail has been on one central, overriding theme—lawlessness. Some of them express direct concern, or emphasize one or more aspects, of that scourge. The following group of letters, which I have excerpted, relate primarily to riots and/or the threatened march on Washington.

I received a copy of a telegram sent to the President from Athens, Ga., which states:

Rev. Abernathy's threats are very much like Hitler's demands with threats of burning America unless his demands of government are met. Many threats and acts of treason, in my opinion. You have had ample proof in destruction. Will you act before it is too late?

One of my constituents writes:

We, the working taxpayers who have to foot the bill for such destruction are quite unhappy about the over-ruling of our voices in regard to the present demand for the tax increase and we are especially displeased with an administration which while demanding more money would seem to more readily accede to the wishes of this lawless element than to we responsible citizens. Don't we have any rights????

A citizen of Oak View, Calif., exclaims:

We will not be intimidated! We demand action, immediately!

I would like to quote this letter received from Brooklyn, N.Y., in its entirety:

Washington D.C. is in serious danger from the poor peoples march on Washington. Hordes of negroes from all the large cities who have been taught to make Molotov Cocktails are in the March.

These Negroes have been assigned to different areas of Wash., D.C. and the suburbs with instructions to toss Molotov Cocktails into thousands of homes and start fires in white areas—burn—burn and when the whites panic these blacks were instructed to shoot many down!

I have [this] information from Negro friends.

Another citizen from New York writes:

This cannot go on. Our government will have a white revolt on its hands unless something is done to help those who work.

A letter from Indiana states:

Washington has been warned and it is time for action to prohibit these agitators from entering any city for the purpose of exciting a riot.

This is another step toward an inevitable Revolution!

A man from New Jersey writes:

I agree and support your decision to stop the "poor peoples" march on Washington. The mall is no place to pitch tents. I do not want the march and ensuing riots which will undoubtedly happen.

Another constituent writes:

On the TV news tonight the report was given of your recommendation to the President concerning the supposedly "poor peoples" march. I agree completely with you that the President should give them warning that riots will not be tolerated, then be prepared to stop them.

A businessman from Rolling Fork, Miss., states:

I just would like to commend you on the stand you have taken and what you had to say about stopping these riots. I am certain if the officials in Washington would do what you recommend we would not have these riots.

A Washington, D.C., businessman sent this telegram:

As the owner of a downtown Washington business I have already felt the wrath of the riot. I implore the Government to do something to stop the rage of terror in our city when people have to live in fear, this is no longer a democracy.

An ex-marine from Miami, Fla., writes:

We shall watch for the red glow in the sky and the smell of burning buildings being wafted down our way in a southerly breeze and by that token we shall be appraised that our beautiful city of Washington is being assaulted again by a militant minority.

A Virginia citizen states:

We appreciate very much your noble efforts to restore the respect for law and order in Washington, D.C., and our country in general.

A housewife from Baltimore, Md., writes:

As a law-abiding citizen, I am most concerned about the anarchy which may result from the Poor Peoples' March on Washington. I appreciate your stand.

A letter from a concerned real estate broker in Sioux City, Iowa, states:

Let us bring law and order to the United States, a thing that we do seem to be lacking. I do not feel that any person is above the law and must answer to the civil authorities for their crimes. Under the guise of peaceful protest, however violent, we are witnessing larceny and the devastation to our cities with no respect shown for the rights of others.

A citizen of Stilwell, Okla., writes:

Another thing that should not be tolerated in this country is the riots, the burning and looting and the killing. If this is not stopped soon the lawless element will take over and the country will have anarchy. What ever force that is necessary should be used to put down these riots because force is the only thing the rioters understand and respect. The riots will stop if enough force is used to put them down hard and fast. Lawlessness such as riots and looting must be put down with an iron hand or no man, woman or child is safe on the street or even in their own homes.

Another letter from an attorney in Oklahoma writes:

Our compliments and appreciation *for your efforts* to warn of the dangers inherent in the so-called "Poor March", and to get the Executive branch to announce that the government "will not be subjected to intimidation, humiliation and disruption, and * * violence, rioting, burning and plundering * * will be promptly met with such force as may be necessary.

A citizen from Greenwood, S.C., plaintively asks:

Why can't we have order in our country? Just what has gone wrong?

Another constituent from my State writes:

A minority group's civil rights ceases to exist when they seek to use those rights to tear up the country that guarantees them those rights. The majority should rule in all things and the majority is tired of all this and it is up to your people in Washington to stop it legally before it becomes necessary to stop it in the streets.

A housewife from California writes:

Thank you for your firm stand against letting our Nation's Capitol become a scene of violence and rioting. It is time our leaders show some backbone, and deal firmly with demonstrators who will stop at nothing unless their demands are met. Millions of honest, law-abiding taxpayers are getting sick of our money being senselessly wasted by destruction of our cities.

A housewife from Pennsylvania writes:

This march from Selma to Washington, D.C. is a disgrace and a true American wouldn't do such a thing. They would be better off at home. Planting a garden and learning how to sweat for a good Cause.

Another Pennsylvanian states:

I am in complete agreement with your views which were expressed in an interview with U.S. News & World Report. The government is going to have to stop the racial disturbances by enforcing the laws; and the attitudes of the President are going to have to change, if the United States of America is to survive as a great nation.

And still another Pennsylvanian writes:

The Supreme Court is wrong letting criminals go free.

From Maryland I received a letter stating:

I can say that I agree with you 100%. If the government would show more force instead of preaching restraint, we might have more peace in our cities.

From a Maryland housewife:

Thanks for laying this problem on the line. Your ideas, observances, and solutions are refreshing; you bring out the hard work ahead to correct the problem—but how else are problems really solved, then to physically and mentally exert ourselves for the betterment of mankind.

From Arlington, Va., I received a letter from a lady about the District of Columbia riots:

Traffic violators receive harsher treatment and punishment than those who took part in the riot. I cannot understand why our laws have been so dreadfully compromised . . . and for what?

My final point is this. Abernathy demands a guaranteed income for people on welfare, better distribution of high ranking jobs, more negro owners of businesses, etc. In other words, an equal share for all: take from the rich and give to the poor. To me, this sounds frightfully close to communism. I think Abernathy and his crew should be made aware of the fact that this is a capitalistic country; not a socialist or communist country. In the United States the practice is that you work for what you get, you make your own breaks and if you can't make it on your own merit, then that's just too bad.

A businessman from Maryland writes:

Frankly I am sick and tired of the idea that our government must do all . . . and I want to put in a plug for good salesmanship and the only function of government here is to guarantee the opportunity to be free to enter business, to manage and work creatively.

A Maryland housewife writes concerning riots:

The police have to stand by and watch rioters and looters burn our cities and get konked on the head by stones and it's almost impossible for them to make arrests any more while crime keeps climbing then everyone they do arrest they get out on some small technical point scot free and do the same thing over.

A Washington, D.C., man writes the following about the Poor People's March:

This march has certainly not been designed to "petition" the U.S. Government, but to intimidate and blackmail its leaders. If the march is allowed to take place as planned, it will certainly lead to disruption in the conduct of the affairs of the U.S. Government, will probably lead to violence, more looting and burning.

The big majority of the colored people themselves don't want this to happen, but there are enough militants and malcontents, enough petty crooks, enough undisciplined teenagers, enough revolutionists, enough racists among them so as to take advantage of the slightest provocation to stir up real trouble.

From an Oklahoma businessman I received the following:

Everyone with whom I talk hope that Senators and Representatives who feel as you do, together with a strong leader in the White House, will help put this nation back on the right track.

A California man writes:

You are clearly stating what should be obvious facts regarding the rigid enforcement of law and order, and about the hopelessness of trying to solve all our problems by the massive application of money.

Three citizens from California write:

We heartily concur with your thinking in this article and feel that if more of the public and law-makers felt as you do regarding law and order perhaps we could get back to sane thinking and not give in to the lawlessness that is now prevailing among certain groups of people in this country today.

Another Californian writes concerning the riots:

I'm convinced that law enforcement is vital to our national survival. Looters, white or black, I think, must be warned what to expect, and let them know we mean business. And again I agree, this order should come from the top.

A Sacramento housewife writes the following about rioting:

They openly threaten to burn this country down and they shoot our policemen in the back then demand the release of the killer.

Another California housewife, concerned about rioting, writes:

We had better be realistic about our capabilities as a nation, and also about the capabilities of these marchers and rioters.

A high school teacher from New Mexico writes the following about the march:

I agree with you that "Law and Order must be maintained at all cost."

I would hope that Congress takes strong measures to insure our National Monuments and objects that men throughout ages have died to protect. This March on Washington should be stopped. I fear these bands of Revolutionaries will sack our Seat of Government.

Sir, I fear that there is no end to this disorder. I hope that Congress will not be "Blackmailed" into pouring more money into useless and corrupt programs.

A citizen from Illinois writes concerning my comments on rioting:

Your comments were well taken, and I agree with you. In fact, your words are almost like a candle in the darkness.

A couple from Oregon write:

I am sure there are many, many people who agree with your views as I do.

From New Jersey I received the following:

If we do not stop playing politics, the country is in for serious times.

A businessman from New York City writes:

I am certain that you have the approval of the great majority of my associates.

An Arizona citizen writes simply on the crime bill:

More power to you, sir.

From a man in Florida:

I believe we are in deep trouble.

A businessman from Texas writes:

Your discussion on riots in the recent U.S. News and World Report, I have no doubt, will be warmly applauded by every straight-thinking citizen who has the opportunity of reading it. Congratulations and keep up the good work you are doing. Your efforts are greatly appreciated by untold numbers of people.

A Georgia housewife writes the following about the rioting:

I deeply feel that it is much later than we realize—as these groups have been working undercover for years. And riots in our streets are near the climax of their long-range plan—and anarchy.

From a Michigan housewife I received the following:

We have read the U.S. News & World Report for May 6, 1968, and are extremely pleased with your interview!

We are in agreement 100%, and thank you for giving the information to this magazine, so that many people in this country can read it.

A citizen from Tennessee writes:

An engine has a governor on it. It's the governor's job to protect the engine from damaging itself. And that is just what our Government should be doing for the American public, the Government should be protecting us from ourselves.

A physician from North Carolina writes the following about the widespread rioting and disorder:

Strict adherence to the law and strict enforcement of the law is the only solution to this problem, and the sooner it is initiated the sooner the problem will be solved. You are on the right track.

A Wisconsin housewife writes about the Poor People's March:

Because of the great danger of riots and destruction of property, we heartily endorse the House Public Works Committee's vote to keep the poor people's march from using public property for shanty towns.

A citizen from Alabama states the following about the riots:

As the son of immigrant parents I *know* that the answer for *everyone* in the U.S. is *not* riots but *hard work*. Hard work and determination can overcome all problems—*not* waiting for "free" handouts.

I do not believe there is a State in the Union I have not heard from. The selections here are only a few of the many.

Up to this hour, when I left the office this morning. I had received only five letters disagreeing with the position I have taken and am advocating with respect to title II of the bill.

I know that I should be receiving more letters than that in opposition to it. There is more opposition than that, but the very fact that these people are writing in from all walks of life and from every State in the Union complaining about the quality of justice being administered by the Supreme Court today clearly indicates that there must be something wrong, because our people have always had great reverence for the Supreme Court.

Since it has been referred to in debate—otherwise I would not refer to it—I remember the effort made to pack the Supreme Court, the so-called court-packing bill. I remember my opposition to it and that the people of my State were almost outraged because they felt that such an action would defile—if that is the right word—the Constitution, and that it would be an act in violation of the spirit of the Constitution.

But I do not feel that this effort here by due process of legislative power and following the authority vested in the Congress by the Constitution, to limit certain actions of the Supreme Court, in any way reflects upon or violates the Constitution. I regret that this effort is necessary, but in order to preserve justice and integrity of great precedents as the law of the land in this country it has become necessary to take this action. We have no alternative. When we vote on this issue on the floor of the Senate, we are going to aline ourselves either on the side of the Constitution, preserving it, maintaining it, honoring it, just as it was writ-

ten and as it was intended to mean at the time it was written and as it had been interpreted for more than a century, down through the years, by the Supreme Court of the past, or we are going to unwillingly lend our support to the opposite view, which apparently is that the Supreme Court can, at its will and at its whim, based upon some sociological theory, say, "Well, no matter what the Constitution meant, we are going to give it another meaning today, and we are going to throw it out and overrule the past in order to establish our doctrine."

Mr. President, what has happened is actually tragic. This is the opportunity, and I hope this body and this Congress will seize upon this opportunity to prevent what has been happening and to try to reverse the trend and turn back the pendulum of justice, as someone said to me in a letter, to somewhere near a middle ground, which will make certain that society is protected, but that the guilty are convicted and punished.

Mr. MURPHY. Mr. President, first of all, I congratulate our distinguished colleague from Arkansas on his remarks. Insofar as my experience is concerned, he is certainly reflecting the opinion and the enthusiastic desires of the great majority of the people of my State of California.

AMENDMENTS NO. 740

Mr. President, I call up my amendments (No. 740) to S. 917, and ask that they be read by the clerk.

The PRESIDING OFFICER. The amendments will be read.

The assistant legislative clerk read the amendments, as follows:

On page 107, between lines 4 and 5, insert the following new title:

"TITLE V—CONFIRMATION OF THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

"SEC. 1001. Effective as of the day following the date on which the present incumbent in the office of Director ceases to serve as such, the Director of the Federal Bureau of Investigation shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed for level II of the Federal Executive Salary Schedule."

On page 107, line 5, strike out "TITLE V" and insert in lieu thereof "TITLE VI".

On page 107, line 6, strike out "SEC. 1001" and insert in lieu thereof "SEC. 1101".

Mr. MURPHY. Mr. President, the amendment is a very simple one. As a matter of record, it has been passed in this body on two occasions, but the House has refused to act on the amendment.

It provides, very simply, that the Director of the Federal Bureau of Investigation be hereafter appointed by the President of the United States by and with the advice and consent of the Senate.

This requirement would be effective whenever the present incumbent, Mr. J. Edgar Hoover, ceases to serve. Present law does not require that the Director of the Federal Bureau of Investigation, as important as this position is, be confirmed by the Senate.

Second, my amendment would continue the compensation of the Director of the FBI at the level 2 of the Federal executive salary schedule, which is currently in the amount of $30,000. Present law provides that the compensation of the Director would revert to level 3 when the incumbent resigns or ceases to serve.

Mr. President, the Federal Bureau of Investigation, unlike any other agency in the Government, has grown up under the personal guidance and under the leadership and tutelage of one man. I have had the great privilege of knowing him personally for over 40 years. I know of no man for whom I have more respect and regard. I do not know of any man who has served his country in greater degree than the present Director of the Federal Bureau of Investigation. In a very real sense, its organization and efficiency are a monument to the life work of J. Edgar Hoover.

When Mr. Hoover was appointed Acting Director of the Bureau of Investigation in 1924, the organization was in disrepute. It did not enjoy a very good reputation. Its condition at that time has been described by Joseph Kraft in Commentary as "a private hole-in-the-corner goon squad for the Attorney General. Its arts were the arts of snooping, bribery, and blackmail. It acted independently of the rest of the Government and without reference to other law enforcement agencies. Its agencies were political hacks and con men." That is the opinion of Mr. Kraft.

Mr. Hoover, however, after his appointment, moved very quickly to rid the investigating unit of its disrepute and of the objectionable practices and agents, and set about immediately on the task of professionalizing it.

Professionalize it, he did, until today the Federal Bureau of Investigation is possibly the most respected organization of its kind. It has about 6,500 agents in major cities across the Nation. Its name is synonymous with honesty and dependability and it enjoys the support and the confidence of the citizens of this great country. Its record could be recited in this Chamber from now until a month from now, and even then only the tops of its accomplishments would be covered. Its collection of fingerprints is the largest in the world. Its laboratories can identify the tiniest and most minute particles of evidence, and they have achieved a degree of expertise that is matched nowhere.

The FBI, in cooperation with State and local police authorities, is one of the most effective instruments for combating crime not only in the Nation, but in the entire world. Day after day, hour after hour, minute after minute, its dedicated public servants wage an unending war against crime, corruption, and against those individuals who seek to destroy the peace and tranquillity and safety of this great Nation.

Before accepting the position as Acting Director of the Federal Bureau of Investigation in 1924, Mr. Hoover rightfully insisted that the Federal Bureau of Investigation be divorced from politics and that the selection and promotion of Federal Bureau of Investigation agents be determined completely on the basis of ability. These conditions, first accepted by Harlan Fiske Stone, have been carefully observed and preserved—thank goodness—by every Attorney General, whether he be Republican or Democrat, since that time.

Most of this is common knowledge Mr. President, even to the average 12-year-old American boy. I may add that the great character of Mr. Hoover has been an inspiration to millions of American boys who have grown up, with him as an ideal that should be copied. It does serve to point up the fact that the Federal Bureau of Investigation is a tremendously important agency of the Government, with rather considerable resources at its command. And because of the unique way in which it grew over the years, under the personal authority and responsibility of J. Edgar Hoover, no provision has ever been made for the appointment of a future Director.

But J. Edgar Hoover, with 44 years of service with the FBI this month, will regrettably not be with us forever. I believe it is time for us, now, to give consideration to making provision for the appointment of future Directors of the FBI. It is time for Congress to make certain that it has a voice in the naming of subsequent Directors, for this work is not only vital to the welfare and security of the Nation, but to the entire world. I believe that the cumulative judgment of the Senate is quite necessary and quite proper in this selection.

Article II, section 2 of the Constitution empowers the President to nominate "by and with the advice and consent of the Senate, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers, as they think proper in the President alone, in the courts of law, or in the heads of departments." Cabinet officers, the heads of major independent and regulatory agencies, and under secretaries and assistant secretaries of the executive departments, have traditionally been appointed by the President with the advice and consent of the Senate.

Logically, therefore the Director of the FBI should also fall into this category, for it is much too important a position to be included in the second classification where the Congress has no voice in his selection.

I have taken this much time of the Senate today to discuss my proposed amendment, not because it is so complicated—and it is not; it is very simple—but because I feel it is an important matter, that should be considered and resolved. Too often, these are the kinds of things that we let slip by until a crisis arises, and then sometimes we find we are without the authority that we need and properly should have.

Therefore, I hope my amendment will be adopted.

Mr. BYRD of Virginia. Mr. President, I am pleased to associate myself with the remarks just made by the distinguished Senator from California. It seems to me that the amendment which the Senator from California has offered today is an extremely important one, and one upon which the Senate should act favorably.

I do not believe in the theory of the indispensable man. I do not think any

man is indispensable. But I am inclined to think that if there were any such thing as an indispensable man, the one who would come closest to fitting the description would be the present Director of the FBI, J. Edgar Hoover.

As the Senator from California has pointed out, Mr. Hoover cannot forever be Director of the FBI, and I think it is important, just as the Senator from California has stated, that the Senate give consideration now to what might happen in future years in regard to the directorship of the FBI.

Certainly there is no more important nor more powerful agency in the Government than the FBI. It has become important and powerful because of the character and integrity of Mr. Hoover, and the character and integrity of the men with whom he has surrounded himself over a period of years—the executives and agents of the FBI.

I believe it is vitally important to the liberties of the American people that the FBI continue in future years to demonstrate the same high principles and the same integrity that it has for so many years in the past; and unless subsequent Directors of that splendid organization are of the caliber of J. Edgar Hoover, I think citizens of our country may be in some danger of losing their individual liberties.

So if the Senate and the Government of the United States think that it is important that the Senate have the right to confirm, pass upon, advise, and consent to the selection of ambassadors—as the Senate did twice yesterday, in the case of Mr. Ball as Ambassador to the United Nations and that of Mr. Williams as Ambassador to the Philippines—then I think it is even more important that the Senate advise and consent as to who shall be the Director of the Federal Bureau of Investigation. As I have stated, Mr. President, I doubt that there is any more important position in our Government. I doubt that any office in our Government can have such a great effect on the lives of individual citizens as that of the FBI Director.

So I am pleased, today, to support wholeheartedly the amendment of the distinguished Senator from California to require that the name of any new appointee to the position of Director of the FBI be submitted to the Senate for confirmation. I congratulate the Senator from California upon offering this amendment.

Mr. MURPHY. I thank my distinguished colleague for his remarks. I am appreciative of his help. I know of his long interest and deep knowledge regarding the FBI and its performance.

Sometimes we think of the FBI as merely an organization of investigators and detectives. I wish that the great body of the American people would have the opportunity to know as much about the performance, the job that has been done, and the daily work that goes on across this great Nation, and the service to the people of the Nation of the FBI as we in the Senate have the opportunity to learn. Its record is so amazing. Here is a case where truth and actual facts are more amazing than fiction. People would find it difficult to believe.

Moreover, in these times when we hear so much about the cost of Government; yet the efficiency of the FBI's operation is so magnificent that I, in my humble way, cannot find words to express it. I think this is a most important issue, and I thank the distinguished Senator from Virginia for his remarks.

Mr. President, I ask for the yeas and nays on my amendment, for a most definite reason: Similar measures have heretofore been passed twice by the Senate. As this bill leaves the Senate, I believe we should have a record of a yea-and-nay vote, so that a reflection of the feeling of this body might indicate to the House of Representatives in a strong voice just how strong the Senate's feelings are in this matter.

The yeas and nays were ordered.

Mr. MURPHY. Mr. President, I yield to the Senator from Illinois.

Mr. DIRKSEN. Mr. President, on June 13, 1963, the Senate passed S. 603, which had the same purpose as the amendment now offered by my distinguished friend from California; namely, to require Senate confirmation for a successor to the present incumbent as Director of the FBI.

Incidentally, Mr. President, it was 44 years ago last Friday that J. Edgar Hoover accepted the job of Acting Director of what was then a very small and obscure Bureau in the Department of Justice. And he did so on condition that he would be divorced from policy, that he would not have to make it a catchall for political hacks, that appointments to the FBI would be made on merit, that promotions would be made on proven ability, and that the Bureau would be responsible only to the Attorney General. I think at that time Harlan Fiske Stone was the Attorney General, and he fully concurred. That is how the FBI started as a defendant investigatory agency.

In those 44 years, the Bureau has become indeed a monument to one man. It has grown in influence, and it has grown in power. It has grown in personnel. It has grown so far as its needs for funds were concerned, and it has virtually become worldwide in its operations because the Bureau has been able to cooperate with other territories and countries in matters involving crime.

It is a real testimony to J. Edgar Hoover. And he has stood by those ideals that he announced 44 years ago, from that day to this.

The Senate passed that measure, and it went to the House. But, somehow or other it foundered over there in the House Judiciary Committee. So, I made another try.

I introduced S. 313 on January 7, 1965. That measure was sponsored by the then Senator Simpson, of Wyoming, and me. It was very short, but it managed to pass the Senate on May 24, 1965.

That measure also went to the House Judiciary Committee, and it was referred to a subcommittee, the chairman of which was not exacty friendly to the idea. And, once more, this proposal foundered.

My interest was reexcited when the President was decorating a soldier in the Rose Garden at the White House. On that day, J. Edgar Hoover was an invited guest. And, in a very informal way, the President of the United States said that J. Edgar Hoover could remain as Director of the FBI, notwithstanding his age, so long as he was alive, so long as he was competent, and so long as he wanted to remain on the job.

I began to think about his successor. Over the years I have heard a number of names bruited about in the Capital. Some of them, of course, inspired some real apprehension in me because of the nature of the work of the FBI. I thought they simply would not do. But the appointment could be made, and nobody could stop it, because in the law there is no requirement that this position in Government require the attention and the confirmation of the Senate.

And so it is here now in connection with the crime bill. It is here very properly, because this is in a sense a kind of an omnibus crime bill dealing with wiretapping, with Supreme Court decisions, with grants, both planning and action grants, aggregating $500 million over the next 3 years to States and localities to cope with the ever-growing problem of crime and unsafe streets.

There are other provisions in the bill, and the pending amendment is at once appropriate and timely. I am delighted that the distinguished Senator from California has seen fit to offer it.

I could offer a lot of statistics as to what the FBI has done by way of fines, savings, and recoveries, which are well over $200 million a year, how it deals with organized crime, what it does in the domestic intelligence field, what it has done with respect to the operations of subversive elements in our country, and a host of other matters. But, to save time, Mr. President, I ask unanimous consent to have printed in the RECORD a memorandum referring to this matter.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM, MAY 14, 1968

To: Senator DIRKSEN.
From: Bernard J. Waters.
Subject: S. 313, FBI Director to be appointed by President and consent of Senate.

On January 7, 1965 you introduced S. 313, co-sponsored by Mr. Simpson, and it read as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, effective as of the day following the date on which the present incumbent in the office of Director ceases to serve as such, the Director of the Federal Bureau of Investigation shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate prescribed for Level II of the Federal Executive Salary Schedule."

This measure was passed by the Senate on May 24, 1965.

The introduction to the report you presented was as follows:

"The accomplishments of the FBI reached new highs in many categories in the fiscal year 1964. At the same time, investigative demands on the agency increased tremendously. Meeting the dual threats of subversion and lawlessness required the full, dedicated effort of the more than 14,300 FBI employees.

"A variety of important violations in the criminal field were handled by the FBI during the fiscal year. At the order of the President, a full inquiry was made into the tragic assassination of President Kennedy. Numerous civil rights cases received intensive

investigation. A record number of violations of the Federal bank robbery statute occurred, and other crimes increased substantially.

"In coping with the increased numbers of Federal lawbreakers, the FBI conducted investigations which led to 12,921 convictions during the year, an increase of 105 over the previous fiscal period. This figure represented 96.5 percent of all persons brought to trial. Fines, savings and recoveries rose to $210,771,402, a new high. Included in this figure is the value of 19,856 stolen motor vehicles which were recovered in cases investigated by the FBI. This total sum amounted to a return of $1.43 for every dollar appropriated for the Bureau. The number of fugitives located by the FBI increased to 12,810, including 16 whose names had appeared on the 'Ten Most Wanted' list.

"The tightly knit ranks of organized crime continued to be targets of highly effective penetration by the FBI. Investigation in this field is concerned with the gathering of intelligence data and collection of evidence for prosecution. During the 1964 fiscal year 56 members of the organized mobs were convicted under interstate gambling and racketeering laws. FBI informants furnished valuable information regarding the organized underworld, and made tremendous contributions in other areas of the Bureau's responsibilities. Information furnished by informants which was of interest to other agencies was promptly disseminated. More than 187,000 items of criminal information received from informants and other sources were relayed by the FBI to appropriate authorities in the fiscal year.

"In the domestic intelligence field, the FBI continued to effectively counter the operations of various subversive elements. During the year, two Soviet nationals and two alleged Soviet illegal agents were arrested by the FBI on espionage charges. The Soviet nationals were released to return to Russia in exchange for an American citizen held in that country.

"FBI investigations of nationalistic organizations in Puerto Rico did much to forestall violence by these groups. In March 1964 the Bureau furnished information to the Puerto Rican police regarding a nationalist group which had committed a series of burglaries to obtain funds for the purchase of arms and supplies. Based on this information, the police arrested most of the members of this group and at year's end they were in prison or awaiting trial.

"The FBI kept appropriate Government agencies constantly informed regarding the activities of the Communist Party, USA, which stepped up its programs on all domestic fronts during the year. A close check was also maintained on the activities of numerous Communist front groups.

"In keeping with its emphasis on raising the professional level of law enforcement, the FBI participated in 4,163 police training schools during the fiscal year. These schools were attended by 117,275 officers. Two classes of officers were also graduated from the FBI National Academy, bringing the total number of graduates to 4,546.

"During the year, thousands of agencies availed themselves of the cost-free services of the FBI Laboratory and Identification Divisions. New records were set by the Laboratory with 200,119 specimens submitted and 257,060 examinations conducted. A record total of 20,270 fugitives were identified by the FBI Identification Division through fingerprint searches and, at year's end, that Division had 171,775 fingerprint cards in its files.

"An alltime high of 578,903 persons toured FBI Headquarters during the 1964 fiscal year."

Mr. DIRKSEN. Mr. President, I do not think there is any point in gilding gold or painting the lily. J. Edgar Hoover does not need it from me. His name is a household word, and it is a word for the underworld of this country to conjure with. His name is better known than the names of Senators, generals, Vice Presidents, and I could name a great many others.

But he has become an institution; and he is an institution because he has so constantly, so steadfastly, and so diligently followed the ideal that he set for himself long ago. In so doing, he became the No. 1 nemesis of the criminals of the country.

By placing it in the bill, this proposal will not get lost in the House Committee on the Judiciary, where it has foundered twice, because the bill has got to go to the White House for signature. The President wants it. When we put the proposal in the bill, our only job then will be to make certain that the Senate conferees will prevail in the conference and keep it in the bill.

So I give my heart and my hand most enthusiastically to the amendment and trust that it will be adopted.

Mr. MURPHY. Mr. President, I thank the distinguished minority leader. I am honored and pleased to have this association. Much of the credit for the amendment should go to the minority leader, the distinguished Senator from Illinois, who offered it in the first instance. He has led this fight in the past. He is an author of a similar bill in this Congress. I also believe that the distinguished senior Senator from Delaware [Mr. WILLIAMS] has introduced a bill on this subject. I do not see that any purpose would be served in prolonging the discussion. As I said, we could speak from now until next week, telling a most interesting and exciting story of the achievements of J. Edgar Hoover.

But one of the things that is overlooked—and I say this from personal knowledge—is the number of times that this great man, Mr. Hoover, has been offered opportunities to leave his position and go into industry, to make his fortune, to fill his bank account with gold, if you will. But that was not his interest. His interest was in the job he had started, the job he had done. He considered that it was his obligation to work for the welfare, safety, and peace of mind of the people of our great Nation, not only for the present, but for the generations to come, as well.

Mr. President, I ask that the amendment now be considered and that the Senate vote on it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Pennsylvania [Mr. CLARK], the Senator from Hawaii [Mr. INOUYE], the Senator from Utah [Mr. Moss], and the Senator from West Virginia [Mr. RANDOLPH] are absent on official business.

I also announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Alaska [Mr. GRUENING], the Senator from Oklahoma [Mr. HARRIS], the Senator from Arizona [Mr. HAYDEN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Maine [Mr. MUSKIE], the Senator from Connecticut [Mr. RIBICOFF], the Senator from Georgia [Mr. RUSSELL], and the Senator from New Jersey [Mr. WILLIAMS] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. CLARK], the Senator from Alaska [Mr. GRUENING], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New York [Mr. KENNEDY], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from South Dakota [Mr. MCGOVERN], the Senator from Minnesota [Mr. MONDALE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Utah [Mr. Moss], the Senator from Maine [Mr. MUSKIE], the Senator from West Virginia [Mr. RANDOLPH], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from New Jersey [Mr. WILLIAMS] would each vote "yea."

Mr. DIRKSEN. I announce that the Senator from New Jersey [Mr. CASE] is absent on official business.

The Senator from California [Mr. KUCHEL] and the Senator from Wyoming [Mr. HANSEN] are necessarily absent.

The Senator from Kentucky [Mr. COOPER] is detained on official business.

The Senator from South Carolina [Mr. THURMOND] is absent on official business, attending a ceremony at the Pentagon in honor of James Elliott Williams, of Darlington, S.C., who is being awarded the Medal of Honor.

If present and voting, the Senator from Kentucky [Mr. COOPER], the Senator from Wyoming [Mr. HANSEN], the Senator from California [Mr. KUCHEL], and the Senator from South Carolina [Mr. THURMOND] would each vote "yea."

The result was announced—yeas 72, nays 0, as follows:

[No. 130 Leg.]

YEAS—72

Aiken	Ervin	Morton
Allott	Fannin	Mundt
Anderson	Fong	Murphy
Baker	Griffin	Nelson
Bartlett	Hart	Pastore
Bayh	Hartke	Pearson
Bennett	Hatfield	Pell
Bible	Hickenlooper	Percy
Boggs	Hill	Prouty
Brewster	Holland	Proxmire
Brooke	Hruska	Scott
Burdick	Jackson	Smathers
Byrd, Va.	Javits	Smith
Byrd, W. Va.	Jordan, N.C.	Sparkman
Cannon	Jordan, Idaho	Spong
Carlson	Lausche	Stennis
Church	Long, Mo.	Symington
Cotton	Long, La.	Talmadge
Curtis	Mansfield	Tower
Dirksen	McClellan	Tydings
Dodd	McGee	Williams, Del.
Dominick	McIntyre	Yarborough
Eastland	Metcalf	Young, N. Dak.
Ellender	Miller	Young, Ohio

NAYS—0

NOT VOTING—28

Case	Inouye	Morse
Clark	Kennedy, Mass.	Moss
Cooper	Kennedy, N.Y.	Muskie
Fulbright	Kuchel	Randolph
Gore	Magnuson	Ribicoff
Gruening	McCarthy	Russell
Hansen	McGovern	Thurmond
Harris	Mondale	Williams, N.J.
Hayden	Monroney	
Hollings	Montoya	

So Mr. MURPHY's amendment was agreed to.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 3033) to increase the authorization for appropriation for continuing work in the Missouri River Basin by the Secretary of the Interior.

TAX INCREASE IMPERATIVE

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a very interesting editorial published in Life magazine for May 16, 1968, entitled "Why a Tax Increase Is Now Imperative."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

WHY A TAX INCREASE IS NOW IMPERATIVE

The long Indian rassle between President Johnson and Chairman Wilbur Mills of the House Ways and Means Committee reached a climax and we hope an end last week. Whoever won, it wasn't the United States.

Mills and his committee reported in favor of the tax increase Johnson asked for, and Johnson agreed to some of the budget cuts Mills insisted on. The combination has been badly needed for at least a year. The delay has permitted the growing strains on our economy to turn into a palpable inflation affecting everybody.

Personal incomes are at an all-time high, and the national product increased by $20 billion in the first quarter—but nearly half of that was in price increase, now running at 4% a year. Poor and prosperous alike are feeling the general price upcreep in every thing from mortgage money and rents to shoes and groceries. Says a lady in Norton, Mass., "Why, I'm going to Florida next week and they tell me cigarettes are 50c a pack down there." Complains a Harvard junior with a good memory: "Last year I could buy a six-pack of cola for 75c plus deposit on the returnable 16-ounce bottles. Now you pay 99¢ for 10-ounce bottles which are not returnable." But even returnable bottles makes fewer trips back to the store than they used to because pennies are so meaningless; some kids actually threw them away. A cup of coffee, lately a dime, is now in many cities 15¢ or 17¢. Best-sellers and textbooks cost about twice what they used to. In Los Angeles, bus fares have gone from 25¢ to 30¢ since last year, and the Red Cross blood bank has just raised its processing fee for union members from $9 to $13. Asked why, the Red Cross replied, "Well, everything is going up."

Some of the increases are meeting buyer resistance. The higher cost of haircuts—now $2 or more—has led many women with growing sons to buy hair-cutting sets and become free barbers. In Denver, to fend off a return of the housewives' boycotts that helped stabilize frisky food prices in 1966, one major chain has just marked down 10,000 items to start what looks like a timely price war. And in Philadelphia ghetto areas, "day-old" stores have been selling fantastic amounts of marked-down bread and pastry that the chains don't consider fresh.

But in most places, inflation seems to have as many friends as foes. Luxury goods and services have gone up more wildly than necessities, but the posh restaurants are still full and so are jewelry stores. Wage-earners, whose first-quarter contract settlements have brought them an average 6% increase (it was 5.5% a year ago), mutter at higher prices but take them in their stride. The poor, and those on low fixed incomes, are so far the main sufferers.

But the whole economy will be hurt badly if this unchecked inflation is allowed to spiral. And maybe the politicians who allowed it to start will suffer at the polls this fall. It is a nice question whether the inflation will be as much of a voting issue as the tax increase necessary to control it. "Tell me again why we need a tax increase. All I know is I'm poorer," says a man in Denver. The answer is that we have been trying to buy more than we produce. The booming increase in total consumer demand is outrunning the increase in production and has to be damped down. This excess demand, combined with rising wage costs and a swelling money supply, fuels the inflation.

The biggest single contributor to total demand is the federal budget. With virtually full employment and most resources under strain, the deficit in that budget becomes directly inflationary. The deficit will approach $25 billion in the current fiscal year (which ends July 1) and unless taxes are increased it will reach $20 or $25 billion in fiscal '69 as well. As the Council of Economic Advisers itself admits, "there is simply no excuse for two $20 billion deficits back to back."

When Johnson introduced his monster $186 billion budget for '69 he called it "stringent," but it didn't seem so to Wilbur Mills, who has therefore refused to sponsor Johnson's tax increase without serious budget cuts. He held out until Johnson assented reluctantly to $4 billion of immediate pruning plus another $18 billion of cuts in "obligational authority," which would show up as expenditures in later years. A House-Senate conference committee has now agreed on recommending $6 billion in immediate cuts instead of $4 billion. Either sum, plus a tax increase of $10 billion, would make next year's deficit manageable.

Mills, a knowledgeable conservative, is said to be more interested in the "obligational" than the immediate cuts. The latter he needs to win enough Republican votes for the tax increase; but the former would be a more significant check on the budget's tendency to grow faster than the economy. In the past couple of years, government spending has been rising about twice as fast as total production.

In trying to make immediate budget cuts of $6 billion, there is danger that Congress will victimize the newest federal programs rather than the less needed. Johnson's budget was conspicuously lacking in a clear ordering of national priorities and these will take time and careful thought to get straight, whether or not the Vietnam war remains a major budget factor. Many of the new urban and poverty programs, for example, should have a higher priority than the space program or the $6.7 billion (about half of it subsidies) we are spending on agriculture; yet farm subsidies can't be radically reduced until the present law, which expires next year, is rewritten. Thus immediate budget savings will be hard to achieve—which makes the tax increase all the more imperative.

U.S. pension systems, most U.S. family and business planning, and even the U.S. political order are based on the assumption of a reasonably stable dollar. As economist William Butler has remarked, "Four percent inflation is not very much for Brazil or Chile," but it is too much for the kind of expectations Americans live by. It is also too much for a country whose dollar underpins a world economy and which is in serious balance-of-payments difficulties. Only fiscal retrenchment, of which the tax increase has become the international symbol, will restore to the dollar the shaken confidence of our foreign creditors. Only by stopping inflation can we check the flood of imports which, in combination with the rising costs of our exports, has all but eliminated our much-needed favorable balance of trade.

The Johnson-Mills struggle over the tax increase has been a tedious but also hair-raising study in the politics of blame-pinning. When Johnson accused Congress of "blackmail" before a nationwide TV audience, he almost killed the tax bill then and there. Fortunately congressional leaders have at last got to work on the retrenchment package. Neither voters nor politicians should place any new obstacles in their way. Of the presidential campaigners, Rockefeller and Humphrey have supported the tax increase, while Nixon is strong for deep budget cuts. Kennedy and McCarthy voted no when the Senate passed its version of the tax bill last month, but each may switch—and should.

"Not for generations," said J. Howard Laeri, president of the American Bankers Association, the other day, "has the nation's political leadership exhibited so stunning a compulsion to catastrophe." It is still not quite too late for it to wake up and do something right.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. MANSFIELD. Mr. President, may I have the attention of the Senate. I want to extend my thanks to the distinguished Senator from California [Mr. MURPHY] for offering the amendment and having it acted on so expeditiously.

I would hope that other Members would follow Senator MURPHY's example and call up their amendments. There are nearly 60 pending at the desk.

I have talked to Senators on this side of the aisle who have amendments. Some would prefer to wait until tomorrow before calling up their amendments. Some want to go over until next week. I assume that the same situation exists on the other side of the aisle.

I would hope that Senators who think enough of the bill to offer amendments would think enough of the Senate to call them up and have them debated, discussed, and disposed of. There is a breaking point, I want to say, on behalf of the joint leadership. If this sort of dillydallying is going to continue, we will have no choice but to call for a third reading.

The PRESIDING OFFICER. The bill is open to further amendment.

Several Senators called for a third reading.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask

unanimous consent that the order for the quorum call be rescinded. I had thought it would be a live quorum call, but it will not be, unless a Senator objects.

The PRESIDING OFFICER (Mr. BIBLE in the chair). Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 749

Mr. PERCY. Mr. President, I call up my amendment No. 749.

The PRESIDING OFFICER. The amendment will be read.

The bill clerk read the amendment, as follows:

On page 21, between lines 19 and 20, insert the following new subcategory:

"(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section."

On page 22, on line 1 after the word "grant." insert: "The amount of any grant made under paragraph (7) of subsection (b) of this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant."

On page 22, on line 10 after the word "personnel" strike the period, insert a comma and "except 90 per centum of the compensation of community service officers may be paid from a grant."

On page 22, on line 12 after the word "compensation" strike the period, insert a comma and insert "except the compensation of community service officers shall not be included in this calculation."

On page 43, between lines 8 and 9, insert the following new definition:

"(L) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act."

Mr. PERCY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PERCY. Mr. President, one of the great problems that we have with our law-enforcement agencies in many slum and ghetto areas of the cities in America is to find a rapport between the citizens of the community and the law-enforcement agencies.

Mr. President, under my amendment, community service officers would be retained for the purpose of assisting regular law-enforcement officers. They would be people who live in the community served by the police unit they worked with, and as such, they would provide a link between the local police department and the citizens of the community. They would tend to be in the 17- to 21-year-old age level.

As I pointed out in remarks on the floor last Friday, most crime in the Nation is committed by the teenagers and younger people. These young citizens simply have not been imbued with a concept of an orderly society. Many times they have seized the law unto themselves, and they are prone to look upon the police agencies as their natural enemies.

It has been found in many communities that the work of the police could be more effective if the police better understood the youth of the community; if they had a better communication link to them and vice versa; and if they could enlist the cooperation of the residents in the community they serve.

The President's Commission on Law Enforcement and the Administration of Justice and the Advisory Commission on Civil Disorders—the Riot Commission—both have recommended that community service officers be retained by local law-enforcement agencies for the purpose of assisting the police and promoting these objectives.

Community service officers could be uniformed or ununiformed. Generally they would be unarmed. They might be equipped with two-way radios, by means of which they would stay in contact with local police headquarters. They would be able to discuss and talk with local teenagers and other groups within the community. They could report disturbances. They would be the eyes and ears of the police force. The men in uniform or in patrol cars usually cannot reach into the communities as young people who know and are accepted by the community could.

I would envision that the type of individuals who would be hired would be those who would not qualify, because of lack of education and training, for local police duties. They would not meet the rigid and high standards that the urban police forces usually insist upon, and rightly so. But many times they could certainly come from the membership of the dominant ethnic group of the community. They could be returning veterans from Vietnam. They could be young men who would otherwise be unemployed for the summer, but whose main asset would be a desire to associate themselves with maintaining stability and order in a community; a desire to carry out the wishes of the community to have the streets safe and to have the homes in the community safe. They would themselves be young enough so that they could maintain the communication and contact with these youth groups and with the community generally, that is so essential.

To cite an example: in the city of Chicago we have some very large, organized teenage gangs. For many years they have been lawless gangs, armed, and have roamed the streets of Chicago, carving up territories and areas as if they owned them. They are called such names as the conservative Vice Lords, the Disciples, or Blackstone Rangers. Some of the groups range in number as high as 2,500. Most of the members are armed. Some of the members have committed robbery, murder, violence in the community. They look upon many of those areas as their own territory.

Some of these young men have been drafted. As a matter of fact, a great many of them have been, and they have gone to Vietnam. They have been trained to handle arms. They have been trained to kill the enemy. After engaging in warfare in Vietnam, or completing other honorable service, many times they come back to face a life of unemployment and idleness back home.

Their return is a pivotal time in their lives. They may not be able to find a job. They may not have the qualifications necessary to serve as law-enforcement officers—perhaps they cannot meet the educational standards. But they have assets that can help law enforcement. They have know-how and respect in the community. They have a considerable amount of experience. Many of them have had discipline instilled in them for the first time in their lives, the discipline of a military life.

If these young men could be hired by local agencies, even though they would not qualify as regular uniformed law-enforcement officers, I think they could make a very useful contribution to effective law enforcement in the community.

It is for this purpose that my amendment provides, under title I, that up to 90 percent of the cost to local communities of community service officer programs could be provided from Federal grants. In conjunction with the accelerated procedure of section 304(b) of title I, community service officers could be provided in many urban centers this summer to assist in avoiding outbursts of the tension and violence that characterized the summer just past.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. MURPHY. I think the Senator's suggestion might prove to be of great value. Is there any provision in the amendment that such organization would be required to have the concurrence of the police department? Two years ago in Los Angeles there was an idea to put together a community alert patrol, which was not developed quite to the degree the Senator from Illinois suggests. Unfortunately, there were certain aspects of it that did not meet with the approval of the department of police or the mayor. In fact, it was pointed out that they might act as overseers of and spies on the police. I am sure that is not what the Senator wants.

This is the cause of my concern and the reason why I wondered if the amendment provided that such an organization would be given approval by the police department, so that their respective activities would be cooperative.

Mr. PERCY. I thank the distinguished Senator for his comment. The purpose, of course, would be complete cooperation. The community service officers would be under the jurisdiction of the local police force. They would be hired, retained, paid by them. They would be under their direction, day by day. They would report—by whatever means might be expedient, such as two-way radio, as they walk the community—directly to precinct headquarters, or the headquarters of the local police unit to which they would be attached. They would be the eyes and ears of the police force. They would represent an inside link with local ethnic groups, with whom they can

closely identify themselves and with whom they can easily communicate, but their objective in this would be to assist local police units.

A widespread problem found in our large cities is the problem of communication with the police force. Community service officers, as my amendment intends, would understand the objectives and purposes of enforcing the law in the community. They could interpret many of the peculiar problems of their neighborhoods to the police in the community and vice versa, in order to make the efforts of the police more effective. But certainly they would not be spies on the police. They would be an extension, an arm of the police in the community, and a necessary communicative link.

Mr. MURPHY. I thank my distinguished friend. I think such officers could serve a most useful purpose.

Mr. PERCY. I thank the distinguished Senator for his support. I would hope the city of Los Angeles and other urban areas will be able to benefit from the provisions of this amendment.

Mr. ERVIN. Mr. President, will the Senator yield for a question?

Mr. PERCY. I shall be happy to have the Senator's question.

Mr. ERVIN. If I construe the Senator's amendment right, all it would do would be to authorize the making of grants to the authorities within the States, to organize and train persons answering the description which the amendment presents. It does not require any local authorities in the States to solicit such grants or accept them, and does not abbreviate in any way the power which local authorities have to select the personnel of their police forces, or those who may assist the police forces?

Mr. PERCY. The Senator's interpretation is absolutely correct. This is permissive; it does not require anything. It leaves all of the authority and all of the decisionmaking in local hands. It simply broadens the concept of how these Federal funds may be used and gives more flexibility. I think it will serve to bring to the attention of law-enforcement agencies all over the country the very interesting and helpful projects that have been carried on in diverse areas of the country along these lines. It will encourage full implementation of the recommendations in this area that have been made by two Presidential Commissions.

Mr. ERVIN. I thank the Senator.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. PERCY. I yield to the Senator from Arkansas.

Mr. McCLELLAN. I think this is also true about it: The proposed administration could very well say to any community or to any applicant for a grant, anyone filing a plan, "If you do not include this in it, we will not approve your plan." They can say, "Very well, but you have got to include this in it, otherwise we do not think your plan would be adequate, and we will reject it."

Mr. PERCY. It would not be, of course, my intention that that be the effect of the amendment. It would not be my intention to impose on a community any particular type of organization or structure, simply for the reason that needs vary so much from community to community.

I do feel that this amendment helps to underscore the need for the block grant approach under title I that will be proposed by my senior colleague from Illinois [Senator DIRKSEN]. I believe the States and the communities should have the initiative in this case and the other subsections of title I. I would feel it a misconstruction of the purpose if any Federal agency would ever try to impose this plan upon a local community, when the amendment is intended to be purely permissive. It is intended to enable funds to be used, if the basic decision is made by the local community that they want funds for such purpose.

The PRESIDING OFFICER (Mr. LAUSCHE in the chair). The question is on agreeing to the amendment of the Senator from Illinois.

Mr. McCLELLAN. Mr. President, I am sure the author of the amendment, in drafting it, has intended to provide some additional service and assistance to communities in law enforcement. But I am afraid that if we continue to add to the opportunities to secure Federal grants, we are going to load this bill down to the point where we will weaken or destroy any greater degree of effectiveness that this legislation would enable local officials to achieve through Federal assistance.

Let us examine what the amendment would do:

> The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting—

I wonder how they could aid in recruiting—

> improvement of police-community relations and grievance resolution mechanisms—

I do not know just what that means.

> community patrol activities;

I am trying to ascertain the intention. Does the Senator propose to employ these people to engage in community patrol activities?

Mr. PERCY. If I should make it perfectly clear to the Senator from Arkansas, first, that I am a cosponsor of the amendment for block grants. It is my purpose to strengthen——

Mr. McCLELLAN. I am not objecting to block grants as such, at the moment, at least.

Mr. PERCY. All right.

Mr. McCLELLAN. I have supported the President's program up to now, with respect to how these funds shall be allocated and administered. I do not see the relationship, at the moment, to block grants. Perhaps the Senator can tell me.

I am wondering how these service officers could assist in police recruiting, how they could assist in community relations and grievance resolution mechanisms; and then, in community patrol activities, I ask the Senator, what are they to do? Are they to go out on patrol in the community? I am trying to find out what really can happen under the provisions of the Senator's amendment.

Mr. PERCY. I envision these young people—and they would be young people——

Mr. McCLELLAN. The Senator says young people. Are we talking about minors, people under 21 years of age, or what?

Mr. PERCY. The Commission recommended they be young men, between the ages of 17 and 21. They certainly could go up to, say 23 or 24.

Mr. McCLELLAN. The Senator says "they could." Could they also be as young as 17, or say, 16? I do not know just what the amendment would authorize.

Mr. PERCY. I think here we would want to leave the discretion to the local officials. Certainly, I could envision, for instance, one young man—and I think, rather than deal in generalities, let me be specific at this point. I personally know a young man who had been one of the founders of one of our youth gangs, who went to Vietnam in the service. He was disabled out there, he lost an arm and a leg. He is now back in Chicago. I have kept in close touch with him.

He now sees that some of the things that he inspired in the youth of his gang in Chicago before are destructive of the very type of society he was trying to help preserve abroad.

That young man is not qualified to be a law-enforcement officer. He is now unemployed. He could receive, certainly, veteran's compensation. But I envision that a young man such as this could be extremely useful to the Chicago Police Department. He knows the youth gangs, and he knows the methods of those gangs are now wrong. He can communicate and talk with them. He can walk about his own community and command its respect. He knows, inside and out, the South and the West Sides of Chicago. He could be an outstanding community service officer, hired by the police department to help communicate with the inner workings of the gangs that have the potential of disrupting life on the South and West Sides of Chicago.

This does not require that the city of Chicago in any way set up such a program. But it would authorize them to do so if they chose. They could experiment in accordance with recommendations made by two Presidential Commissions, to see if a new type of link and communicative body could be established, to assist the police department in bridging the gap between itself and the residents of the ghetto.

Mr. McCLELLAN. It says here:

> . . . to serve with and assist . . . community patrol activities; . . .

Would they be on patrol? Could they be?

Mr. PERCY. They could well be on patrol, with or without regular police officers. I think one of our great problems is in quickly alerting the police to the occurrence of crime.

I would visualize these young people of the community being employed and being assigned to a particular neighborhood or community patrol. They would report back to the police. He might be equipped with nothing but a two-way radio. He would report back to the police the occurrence of a crime in the community, as he observed it, or as it was reported to him. It might be the case of a woman that was being assaulted, a store that was being robbed, or an automobile that was being damaged. On the other hand, he might ride with a regular officer

in a police car, freeing a regular patrolman for other duties. The same might be true of foot-patrol duty.

I think using the younger people in the community to work with the police, whom many residents of the ghetto look upon as their natural enemies, would help to bridge the gap that many distinguished individual citizens and commissions have pointed out exist between the citizens of the community and the police and law-enforcement agencies of the city.

Mr. McCLELLAN. Would those young people be paid policemen in a sense?

Mr. PERCY. They would not be paid police salaries, of course, because they are not qualified to meet the usual standards of policemen.

The salaries could be established at a level appropriate for the job and the condition of the community.

Mr. McCLELLAN. Mr. President, one section of the amendment, beginning on line 4 of page 2, reads:

> On page 22, on line 1 after the word "grant." insert: "The amount of any grant made under paragraph (7) of subsection (b) of this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant."

Does that mean that 90 percent of the salaries of those who were employed could be paid by the Federal Government?

Mr. PERCY. That is correct, however, there would be no increase of any kind in the authorization in the bill. If a community decides it wants to establish community service officers and if it undertakes to experiment with this program, up to 90 percent of the salaries of those individuals could be paid out of the Federal grants, and that community would initially pay 10 percent of the salaries or cost of the program.

Mr. McCLELLAN. The local community would pay 10 percent and the Federal Government would pay 90 percent.

Mr. PERCY. The Senator is correct.

Mr. McCLELLAN. Does the Senator favor a provision for the Federal Government to make grants for the payment of salaries of police personnel?

Mr. PERCY. Certainly to this extent. I think the distinguished Senator knows the provisions of the pending bill better than I do. I appreciate his concern for the compensation provisions. However, this would not in any way add funds authorized under the bill. It would merely enable a community to set up this type of program if they feel that this would be for them the best use of the Federal funds provided under the pending bill and wish to do so.

Mr. McCLELLAN. It would not add funds because there would be an authorization of so much in funds for this year and for the next year. The Senator is correct. It does provide for additional services, however, for which funds will be sought from time to time.

I have gone along with the administration in an effort to try to pass a bill that would do substantially what the President recommended in the safe streets and crime bill and have made some modifications in it in view of the limited funds that will be appropriated, to the end that we might give some of these proposals an opportunity to be tried so that we might see what good could come from them.

I have not been able to study the matter as thoroughly as has the Senator from Illinois, but one of my concerns about the pending amendment and other amendments along this line that will be offered is that if these amendments are agreed to it will load the bill down with so many programs in which the Government would have to participate that we will find ourselves in the position of being requested to furnish the money to do all manner of things. In that event, the Federal assistance may become so burdensome and be spread so thin that the good we hope to get out of it and the benefits that we hope will be provided for the people will not materialize.

My own thought is that we ought to start off with two or three of these major programs. Let us enact the statute, get some appropriations, and move into these areas, and see how the eligible communities respond with plans and getting planning grants, and we can then get the program going and later strengthen the law as experience indicates it should be strengthened or expanded, and where.

I believe that we would be making a mistake if we were to load the initial legislation down with so many authorizations that we would find it difficult to finance adequately any of them.

I would rather start on a smaller scale and experiment with the program, because this is an innovation in the sense of having the Federal Government aid financially in law enforcement in local communities. We all agree that the primary responsibility is in the local communities, but we are proposing to bring the Federal Government into the matter with financial assistance. I think it would be wiser—without going into the merits of the matter—to get started on some of these other vital things possibly and get the legislation working and then concentrate on some of these major things and see if we can make a go of it and make it work and make it effective. Then we could add to it after we have gained experience and ascertained where the Government can be of more effective assistance. At that time we could amend the statute accordingly.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. PASTORE. Mr. President, I think that the main difficulty here is in a meeting of the minds as to exactly what the amendment means.

We already have under the bill six subsections for which an application can be made.

The Senator is suggesting an additional subsection. And it strikes me that in the draftsmanship of the amendment, it would necessarily mean that a community could apply for section 7 solely and strictly, which is, of course, of some concern to the Senator from Arkansas.

If the Senator from Illinois really means this to be within the grants made, so that then I believe all we need to do here is to correct the Senator's amendment to provide that if a grant is made within the provisions of the previous six criteria, a community within its discretion could use that grant for the additional purpose included in the Senator's amendment.

I think that is where the fault lies, because if the Senator looks at page 20, line 14 of the bill, it reads:

> Under this part grants may be made pursuant to an application which is approved under section 303 for—

The Senator is adding another criterion why a grant could be made. In other words, the way the amendment is drawn, this would be an additional basis for which an application can be made. As the Senator from Illinois has already explained, he does not intend that at all, but intends it within the grants already made for the six reasons above, or any one thereof, so that it can be expanded to cover the other use. Is that correct?

Mr. PERCY. The Senator is absolutely correct, if I understand his point.

Mr. PASTORE. Then, I think all the Senator has to do is to modify his amendment so that it will read that way, and then we would not have any trouble, because that would not increase the authorization, and it would not increase the purposes for which an application is made. However, as soon as an application is made under the six provisions contained in the pending bill, for the reasons stated in any one of these provisions, a community within its discretion can use part of the grant for this additional purpose.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. JAVITS. I should like to concur with Senator PASTORE. I believe this is an extremely desirable amendment. I intend to support it. I believe the Senator can probably deal with the major objection of the manager of the bill in the way that Senator PASTORE has suggested. I hope very much that the Senator from Illinois will consider doing that.

Mr. PERCY. I should like to ask a question of the distinguished Senator.

Mr. McCLELLAN. May I suggest this, if the Senator will yield to me at this point. I am not sure that my colleagues are correct in what they are saying.

Frankly, I believe the Senator from Illinois is making the right approach, if he wishes to have a title VII and to put in it a provision that they can make an application for that specific purpose.

I would rather see it this way than to just say that they make application under one of the other sections and take the money and use it for some purpose not outlined or set forth in one of the other specific authorities. I believe there must be authority. What is desired to be done must be spelled out in the authorization. I know of no better way to do it than as the Senator is doing it, so far as the mechanism of the proposed legislation is concerned—to have another title and set it out.

If they want to submit a plan for this purpose, let them submit a plan that conforms to this subsection.

Mr. JAVITS. As I understand Senator PASTORE's remarks, he is dealing with the problem of increasing the umbrella authorization. He says that it is not increased if it is made crystal clear that this shall be one of the items for which they have a right to file an application within that umbrella authorization.

Mr. PASTORE. No. I have been listening very attentatively. I do not know whether this is an approach to set forth a new formula for a new grant or an addition to the six provisions already in the bill that was reported by the committee.

I am only going by the explanation of the Senator from Illinois. Of course, if he intends that in addition to these six provisions there shall be the other seven, that is one thing. But he did not explain it that way. He said he meant it to be within the grants already made.

Mr. JAVITS. He means the money.

Mr. PASTORE. Then they can use it for this purpose as well. I thought there might be a better meeting of minds according to the explanation made by the sponsor of the amendment.

Mr. JAVITS. It is my understanding that Senator McCLELLAN goes along with the idea that the Senator from Rhode Island has expressed, but he says it should be necessary to make a proposal which would be comprised within the authority of subsection (7).

Mr. McCLELLAN. That is one point. But the Senator from Illinois is correct. It must be legislated. It must be authorized.

The same authorization could be included in one of the other sections. It makes no difference that it is given a separate number or that it is made item No. 7.

I was trying to emphasize that we might say that we want to let them make a plan and that if they decide later to use the money for this purpose, they would have a right to do it; by, in my judgment, it cannot be done that way. The plan would have to incorporate, before being approved by the authority that they have a project of that character and included in their plan as is the situation with any of the others. As the Senator has said, there would be seven different things for which they could submit a plan.

Mr. JAVITS. For the same money.

Mr. McCLELLAN. They would not have to submit a plan to cover everything. They could take subsections (1), (2), (3), or (4), and submit a plan for it and get it approved and get money for that purpose.

However, having submitted a plan for section 5 or section 3 or section 2, they could not then decide to take the money and use it for something not authorized under that particular title.

Mr. JAVITS. The Senator is correct.

Mr. McCLELLAN. I have no objection from the standpoint of making it a separate title if it is going to be enacted. It might very well be better to do that. I do not know how many more amendments will be offered to expand this authority.

I believe the better part of wisdom and judgment is not to try to unduly expand this bill to cover everything. Let us get started on this new program of Federal cooperation with the local communities, local municipalities, or States—if they submit a State plan—and get it started, so that it is functioning, and from that experience add some of these other things.

The Federal Government cannot carry the entire burden. This proposal may be needed; but I am sure that if it is needed in other areas where funds are going to be made available, it will hopefully release present funds for the local people to do this themselves.

When they get this program organized and get it going as they have with recruiting and training and other things, then, if it is the judgment of Congress that experience indicates that it should be expanded to include your suggestion for assistance in that area, that might be well and good.

I am not necessarily objecting to or opposing the idea. What I am attempting to point out is that we will wind up with a law that will not get anything done. I am sincere about wanting to see title I enacted. I do believe the time has come when the Federal Government must assume responsibility to get into the communities and to provide some assistance in recruiting and training and in securing modern police equipment. I am going along with that aspect of the bill with some measure of enthusiasm, although I do not believe, as I have said many times, that that alone will solve the crime problem in this country. But it is a step in the right direction, and it will help.

I urge my friends who I know support this approach to this title of the bill as enthusiastically as I do that we proceed with some caution and not load it down at this stage. I say that in all earnestness, not opposing, not fighting—not in that spirit—but truly trying to get some thing that in the beginning is workable, which we can all get behind and support, and try to make it work. And as we develop the experience needed, and local communities find that they can expand in an area such as the Senator suggests by his amendment, then let us consider assistance in that field.

Mr. PERCY. Mr. President, I should like to make it quite clear to the distinguished Senator from Arkansas that I wholeheartedly and enthusiastically support title I of the bill. I have discussed it in detail with the Director of Public Safety of the State of Illinois, with the Commissioner of the State Police, and with our distinguished Governor, Otto Kerner. I have discussed it as recently as last week.

My whole purpose in offering the amendment is not to expand the bill unnecessarily. Many of the functions of the community service officer are inherent in the other subsections, such as education, community relations, and others. My amendment is intended to provide a more flexible means of achieving these objectives.

I particularly appreciate the feeling of the distinguished Senator from Arkansas that the way the amendment has been offered is the best way if we are to approve this particular function. I am very anxious—as I know many of my colleagues are—to see that we have some authority within fiscal 1968, especially this summer, to respond to the needs of local communities.

I emphasize again that the amendment was passed upon by the President's Commission on Law Enforcement and the Administration of Justice—the President's Crime Commission—and the National Advisory Commission on Civil Disorders—known as the Riot Commission.

In February 1967, the President's Crime Commission issued its report entitled "The Challenge of Crime in a Free Society." That distinguished Commission concluded:

> Two striking facts that the UCR (Uniform Crime Reports of the Federal Bureau of Investigation) and every other examination of American crime disclose are that most crimes, wherever they are committed, are committed by boys and young men, and that most crimes, by whomever they are committed, are committed in cities.

I shall quote from the March 1, 1968, report of the National Advisory Commission on Civil Disorders:

> The conditions of life in the racial ghetto are strikingly different from those to which most Americans are accustomed—especially white, middle-class Americans.

I spent a good part of my life working with young people in such distinguished organizations as the Boy Scouts of America, of which I was a vice president, and as a trustee of the Boys' Club of Chicago for the past 15 or 20 years. I have worked with youth gangs of all types, trying to utilize those young people in constructive work. I am more impressed than ever, as I have gone back time and time again to the ghettos of Chicago, by the increasing gap that exists between law enforcement agencies and the young—especially the blacks—of those communities.

They cannot seem to converse with each other; they do not understand the language of each other; and for all that appears, they have an entire set of different objectives for society.

I could best depict that situation with an excerpt from the President's Crime Commission, the task force report on the police which relates an interview that police had with a young man.

The young man said:

> Why in the hell—now this is more or less a colored neighborhood—why do we have so many white cops? As if we got to have somebody white standing over us. * * * Now if I go to a white neighborhood, I'm not going to see a lot of colored cops in no white neighborhood, standing guard over the white people. I'm not going to see that; and I know it, and I get sick and tired of seeing so many white cops, standing around—page 167.

I think that the President's Commission included that illustration not as an idle comment from one isolated youth, but as an indication of the feeling and overwhelming attitude of young Americans. These are the same young boys we are drafting to go to Vietnam, and that we are going to teach to kill, and to whom we are going to teach guerrilla warfare.

I have talked to boys in Vietnam and I have talked to them when they returned to America. All I am saying is that within the whole purpose and objective of title I, which is so overwhelmingly in the national interest, and which will be responded to so enthusiastically by our State and local law-enforcement officials, I hope we would recognize that in this one area of finding answers to crime among our young people, we have to find a way to communicate, to get in touch with them, to talk with them. We have to sign up leaders of those groups on the side of law enforcement. Many of them

do not now qualify, as of this moment or as of this summer, for the standards set down, and rightly so, by our police officials.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. McCLELLAN. Let me ask the Senator a question. I am beginning to be a little more enlightened about this matter.

As I understand the Senator, he proposes to go into these communities where these toughs and law violators are and hire them. I do not agree with that at all.

Mr. PERCY. Hire whom?

Mr. McCLELLAN. The toughs and law violators; those persons causing the trouble, as I understand the Senator.

Mr. PERCY. No, I did not say that at all. I think there are thousands of young people who want to see the enforcement of law and order in their communities. They live in communities where families are terrorized and their sisters are raped. They want to see something happen to make their communities livable, free from fear of criminal activity, and free from fear of riots.

It would be helpful if we were to take only the number of blacks returning from Vietnam, those men who have had the discipline of Army life, who have lived and worked alongside of others, and who have found what it is like to live in a better-ordered society. They could be taken, I would not suggest we take men with a criminal background, although I would not say that a man should be totally disqualified if he has some sort of minor police record. That situation should be judged by the local law-enforcement agency. They are not anxious to hire lawbreakers, but they are anxious to make law enforcement more effective than it is now. Several communities in the Nation have already found this to be the best investment they could make in a new program which would provide a valuable link that they do not now have.

Mr. McCLELLAN. Under subsection (b), item (3), the bill already provides for public education relating to crime prevention and encouraging respect for law and order, including educational programs in schools and programs to improve public understanding and cooperation with law-enforcement agencies.

It seems to me that language is broad enough to do everything that should be done to try to establish better relations with the community and to encourage the youth not to violate the law. That language is in very broad terms.

Mr. PERCY. I would just like to picture for the distinguished Senator what effect it would be and what effect it would have for a white police officer——

Mr. McCLELLAN. Just a moment. Will the Senator yield at that point?

Mr. PERCY (continuing). To walk into a school in Chicago, a high school noted for crime, for violence, for all types of disorder, and for him to stand up and try to communicate to the black community of high school students in front of him. How much better it would be if the police could arrange with the principal of that school to have a young man appear, a black, who is not a police officer, as such, but who is retained by and is under the employed control of the local police and law-enforcement officials. This element of the police force then could serve the purpose of educating, communicating, meeting with, counseling, and talking with these young people in the language of the street, language they would understand.

If I were a law-enforcement agent I would certainly want authority in my city of Chicago to go into such communities in that way rather than to have a uniformed policeman stand up in front of an audience in an auditorium or classroom and try to preach law and order.

We have to bridge the barriers that now exist between the residents of that community.

Mr. McCLELLAN. Why say white police? Why can we not say colored police? We have some that are capable and competent.

Mr. PERCY. We do have many that are capable and competent.

Mr. McCLELLAN. Then why say white police? If they resent white people why not send in colored police? Why can they not send those?

Mr. PERCY. I accept that—it would be more effective to send a black policeman in. But I would only ask the question: Is it the best use of any policeman's time? A policeman is a highly paid, highly trained law-enforcement official. His job is to be out where crime is to be committed, of course. Could we not better use someone whose salary might be half that of his, who is closer in age, and would have a better opportunity, really, to communicate and be on the same wavelength as the young individuals sitting in front of him?

Mr. McCLELLAN. Who is going to train the people going out to do this? Where are they going to get their training? I do not believe they could get it by accident.

Mr. PERCY. That training could well be provided by the training forces and facilities which now exist within our major cities, and whatever areas of the country might take advantage of the provisions.

Mr. McCLELLAN. What training forces does the Senator have reference to?

Mr. PERCY. I presume we have well-ordered and well-established police forces for training police officers.

Mr. McCLELLAN. Is it the Senator's idea that they should be authorized to make arrests?

Mr. PERCY. No; it would not be. Again, it could be a local option for them to assist in arrests. I would envision that this would be an on-the-job training program to a great extent, but I would not begin by authorizing them to make arrests.

Later in the program he could be elevated to the point that he would put on a uniform of some sort. Then he might be authorized to assist in making an arrest, though he still might not be armed. However, I think a motivated man could progress up to the level qualifying to be a police officer as a result of his on-the-job training and completion of a modest educational program. This would certainly be true—the case of a veteran.

Mr. McCLELLAN. Well, how many does the Senator think will be needed in addition to the police? The Senator is talking about running and calling for the police if he sees a crime being committed. I wonder what has happened to America that its citizens will not call a policeman if they see a crime being committed? What have we come to? Have we got to hire someone to call a policeman if a crime is being committed? I cannot see it that way.

Mr. PERCY. I ask the distinguished Senator only to interject an element of realism here. I deplore citizen apathy as much as he does in the face of crime. But we are all aware of the fact that all over the country we have seen crimes committed that went unreported, sometimes, for many hours. Some were not reported at all, because the citizen feared the police more than the criminal.

The community service officer would be an individual who knows the community backward and forward because he grew up in it; he would know its difficulties; and he would know where to go. He would try to be in evidence in those areas of high crime incidence. For instance, we have stores in the community of Washington which have been robbed three, four, or even five times a year. I feel that if someone in the community would know that someone could recognize them if they committed a crime, and knew he was armed with a two-way radio, could call the police immediately, and could identify his car as well, we might cut down the incidence of this kind of crime.

Mr. McCLELLAN. How many will it take to be everywhere where crime might be committed? It is impossible. If the citizens of this country will not do that much, at least report crimes and call the police when a crime is being committed, it is impossible, I say to my good friend, to hire enough people to stand guard at every place of business that might be robbed. It just cannot be done.

Mr. PERCY. What we are trying to do is make a start.

Mr. McCLELLAN. I would say this, further. In an area such as the Senator just referred to, I think that is beyond any question of reason to try to put one person on every block. I do not believe we could keep one person on every block for 24 hours a day. We might be able to place one for every three or four blocks, but I do not think it would be possible for them to see every crime being committed. It is just too fantastic.

If we are going to try to do all of that, we are going to have to appropriate millions of dollars. If we are going to try to provide that sort of—I would call it nursing care to every community, I do not think it can be done.

Under the education program now provided in the bill, I am sure that there is some expectation, some hope, that civic interest in the community, civic pride, and law-abiding citizens will, in some measure, cooperate with the police to the end that the functions can be administered and improvements can be made by these methods. But, Senator, although it sounds good to have someone present everywhere a crime is going to be committed, so that he can call the police quickly, I think it is fantastic and do not think it is possible. I believe we have in

the pending bill—I say this in all earnestness—the basic authority to give communities the opportunity to deveolp plans and submit them.

At the moment, I regret that I am unable to develop any great enthusiasm for the Senator's amendment.

Mr. President, I am ready to vote, if the Senator from Illinois is.

Let me add this, that I am sure the Senator is doing this out of a desire to try to strengthen the bill and reach down into his communities and do a lot of things he would like to see done or would like to see happen. But, I am apprehensive that it is going a little too far, too soon, at least at this stage of the general concept of the Federal Government's trying to give assistance to law enforcement.

Mr. PERCY. Mr. President, I should like to summarize in this way: I support title I of the bill. I support the concept of as much initiative coming from our local communities as we can possibly have.

I believe that we all recognize the high incidence of crime which exists among the young people in this country, and that we must recognize the tremendous gap which exists between law-enforcement officials and young Americans committing this incidence of crime. It is for this reason that I should like to empower local agencies to use Federal assistance, not increasing the authorization of the bill, but out of those funds which have been made available, authorize the implementation of county service officer programs, to assist and reinforce the efforts of local law-enforcement officials. I envision obviously that there cannot be enough law-enforcement officials hired to stamp out every crime. There must be a certain amount of neighborhood surveillance; citizens must be encouraged to cooperate with law-enforcement officers; and police-county relations need dramatic improvement.

Mr. McCLELLAN. That is provided for in the bill now.

Mr. PERCY. Part of the great problem we have had is that, as the poor from rural, southern communities, have migrated to the North, they have been put in 16-story high-rise public tenement buildings called public housing. They are in increasingly crowded tenements. Not only is the surveillance that a mother or other members of the family had over the children removed but the control as well. Children cannot be watched from 16 stories away.

What my amendment proposes to do is to provide a link between the police and the community—young and old—through a person who has grown up in that community; who is motivated to find a way of getting greater citizen support for the law-enforcement officials of their city; and who finds a way to communicate the needs to the citizens of his own community to help the police rather than hinder them in their work.

It is for that reason that I have offered the amendment. It was my hope that it would be accepted, but I appreciate very much the spirit in which our distinguished colleague has engaged in this colloquy. It has been helpful in reinforcing some of the points I have tried to make.

Mr. LAUSCHE. Mr. President, I have listened to the discussion today between the Senator from Arkansas and the Senator from Illinois on the amendment proposed by the Senator from Illinois, contemplating the establishment of further services in the Department of Justice that will give education to our youth about the need of complying with law and order.

I must immediately subscribe to the general objective of the proposal made by the Senator from Illinois. However, I think it is not amiss if at this time there be pointed out the low depths to which we have fallen in our country with regard to compliance with law and order, which in substance means compliance with morality.

We have now reached the point where the Federal Government, in the Department of Justice, will establish an agency that will cooperate with local governments, primarily in educational fields, to procure compliance with the law.

I am obliged at this time, Mr. President, to make the query: Why have we failed in the degree pointed out in the discussions had on this floor, in spite of the great educational, religious, and cultural programs of our country? How many policemen do we now have enforcing law and order? How many prosecutors are there who have been vested with the responsibility of procuring compliance with law? How many probation officers, how many social workers, how many guidance officers in our penal institutions, how many parents vested with the primary responsibility of inculcating in their children an understanding that freedom and liberty cannot be preserved unless there is compliance with the law?

Why have we failed to the extent indicated by the arguments made? It is a travesty, it is difficult to understand, but there must be something more basic than multiplying the agencies of government needed to bring about compliance with moral laws.

In my judgment, Mr. President, the best thing that we could do would be to have high government begin complying with law and order. The best teacher is example. Teaching by word is secondary and tertiary to teaching by example.

Take a look around and see what the situation is with regard to high public officials. By example it should be demonstrated to youth that, if they want democracy to survive, youth must accept the concept that moral righteousness is absolutely needed everywhere, and primarily in a democracy.

I regret having to make this statement, but, in my opinion, we are failing in the highest level of government. It is proposed to give the Department of Justice authority to teach and to develop an attitude of compliance with law and order. The first thing I would do is tell the Department of Justice, perform your duty as a law enforcement agency. That is the best thing that could be done. But we are not asking that. The Department of Justice will go on, looking with indifference upon insurrection and defiance of law and order, while asking the Congress to give it authority in educational fields.

I support the effort set forth in title I, but let us give it a trial, instead of expanding it, as has been proposed by the amendment of the Senator from Illinois.

Mr. President, I have viewed our present problems in the following order: No. 1, the international problem in South Vietnam; No. 2, defiance of law and order; No. 3, the challenge to the stability of the American dollar. Perhaps category 3 could be put into category 2, or category 2 into category 3, but I want to repeat that, if we are to succeed in getting youth to comply with law, it will have to be more than by spending Federal dollars and by establishing new agencies of enforcement. It will have to be by setting the example at every level of public office by compliance with duty and obedience to responsibilities imposed on public officers by law. By that alone, the greatest good will be achieved.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment (No. 749) of the Senator from Illinois.

Mr. MILLER. Mr. President, I ask unanimous consent that the portion of the amendment beginning on line 4, of page 2, and running through line 16 on page 2, be voted on first, separately.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and the clerk will call the roll on the part of the amendment that has been requested by the Senator from Iowa, beginning on page 2, line 4, through line 16.

The part of the amendment referred to is as follows:

On page 22, on line 1 after the word "grant." insert: "The amount of any grant made under paragraph (7) of subsection (b) of this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant."

On page 22, on line 10 after the word "personnel" strike the period, insert a comma and "except 90 per centum of the compensation of community service officers may be paid from a grant."

On page 22, on line 12 after the word "compensation" strike the period, insert a comma and insert "except the compensation of community service officers shall not be included in this calculation."

Mr. MILLER. Mr. President, I should like to make the point that I believe this amendment is pretty well divisible for purposes of consideration by the Senate.

The idea embodied in the provisions on community service officers appeals to me very much. It is the 90-percent ratio which is in question in the portion of the amendment we are now about to vote on. A vote for this portion of the amendment means 90-percent money for community service officers; a vote against it means that the same ratio will apply with respect to community service officers as to all other sections of the bill.

The ACTING PRESIDENT pro tempore. On this question, the yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Maryland [Mr. BREWSTER], the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Sena-

tor from Oklahoma [Mr. HARRIS], the Senator from Indiana [Mr. HARTKE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. KENNEDY], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. MCCARTHY], the Senator from Wyoming [Mr. MCGEE], the Senator from New Hampshire [Mr. MCINTYRE], the Senator from Minnesota [Mr. MONDALE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. INOUYE], the Senator from Utah [Mr. MOSS], and the Senator from West Virginia [Mr. RANDOLPH] are absent on official business.

I further announce that, if present and voting, the Senator from Wyoming [Mr. MCGEE] and the Senator from New Mexico [Mr. MONTOYA] would each vote "nay."

On this vote, the Senator from Oregon [Mr. MORSE] is paired with the Senator from South Carolina [Mr. HOLLINGS]. If present and voting, the Senator from Oregon would vote "yea," and the Senator from South Carolina would vote "nay."

On this vote, the Senator from Connecticut [Mr. RIBICOFF] is paired with the Senator from Louisiana [Mr. LONG]. If present and voting, the Senator from Connecticut would vote "yea," and the Senator from Louisiana would vote "nay."

On this vote the Senator from New York [Mr. KENNEDY] is paired with the Senator from West Virginia [Mr. RANDOLPH]. If present and voting, the Senator from New York would vote "yea," and the Senator from West Virginia would vote "nay."

On this vote, the Senator from Washington [Mr. MAGNUSON] is paired with the Senator from Maryland [Mr. BREWSTER]. If present and voting, the Senator from Washington would vote "yea," and the Senator from Maryland would vote "nay."

Mr. DIRKSEN. I announce that the Senator from New Jersey [Mr. CASE] is absent on official business.

The Senator from California [Mr. KUCHEL] and the Senator from Wyoming [Mr. HANSEN] are necessarily absent.

If present and voting, the Senator from Wyoming [Mr. HANSEN] would vote "nay."

The result was announced—yeas 29, nays 47, not voting 24, as follows:

[No. 131 Leg.]

YEAS—29

Aiken	Hart	Pastore
Bartlett	Hatfield	Pearson
Bayh	Jackson	Pell
Boggs	Javits	Percy
Brooke	Kennedy, Mass.	Prouty
Carlson	Mansfield	Proxmire
Clark	McGovern	Scott
Cooper	Morton	Tydings
Dirksen	Muskie	Yarborough
Dodd	Nelson	

NAYS—47

Allott	Bennett	Byrd, Va.
Anderson	Bible	Byrd, W. Va.
Baker	Burdick	Cannon
Church	Hill	Smith
Cotton	Holland	Sparkman
Curtis	Hruska	Spong
Dominick	Jordan, N.C.	Stennis
Eastland	Jordan, Idaho	Symington
Ellender	Lausche	Talmadge
Ervin	Long, Mo.	Thurmond
Fannin	McClellan	Tower
Fong	Metcalf	Williams, N.J.
Griffin	Miller	Williams, Del.
Gruening	Mundt	Young, N. Dak.
Hayden	Murphy	Young, Ohio
Hickenlooper	Russell	

NOT VOTING—24

Brewster	Inouye	Mondale
Case	Kennedy, N.Y.	Monroney
Fulbright	Kuchel	Montoya
Gore	Long, La.	Morse
Hansen	Magnuson	Moss
Harris	McCarthy	Randolph
Hartke	McGee	Ribicoff
Hollings	McIntyre	Smathers

So the designated portion of Mr. PERCY's amendment was rejected.

The ACTING PRESIDENT pro tempore. The question now arises——

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, in view of the developments that have occurred, I am about to propose a unanimous-consent request which meets with the approval of the distinguished senior Senator from Arkansas [Mr. MCCLELLAN] and the distinguished junior Senator from Illinois [Mr. PERCY].

I ask unanimous consent that there be a time limitation of 10 minutes on part 2 of the amendment, the time to be equally divided between the Senator from Arkansas and the Senator from Illinois.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. HOLLAND. Mr. President, the vote has been announced.

The ACTING PRESIDENT pro tempore. The vote has been announced on the first part of the amendment. The question now comes on the second portion of the amendment.

The Senator from Montana is asking for a time limitation of 10 minutes on that part.

Is there objection? The Chair hears none, and it is so ordered.

Mr. PERCY. Mr. President, for the benefit of many Senators who have not heard the earlier debate, my amendment is based upon recommendations of the President's Commission on Law Enforcement and the Administration of Criminal Justice and the Presidential Advisory Commission on Civil Disorders, the Riot Commission.

It is the solid conclusion of these two Presidential commissions—who have collected the facts and statistics back them up—that the incidence of crime in this country is created to a great extent as a result of crimes committed by boys and young men. Further, most crimes by whomever they are committed are committed in the cities.

It is for this reason that if the Senate wishes to address itself to the problem of crime, it must deal with crime in the cities, and it must deal with crime committed by young people.

It is the contention of the Presidential Advisory Commission on Civil Disorders, furthermore, in its report that the conditions of life in the racial ghettos are strikingly different from those that most Americans are accustomed to. The great problem that exists with relation to law and order in our cities is caused by the great gap existing between the residents of the ghettos and the law-enforcement officers of the great cities.

It is for that reason that in several communities in the country experimental projects have been carried out—and with great success—in which young people, sometimes returning veterans from Vietnam who are residents of the ghetto communities, have been hired by the police to be the eyes and ears of the law-enforcement agencies in the neighborhoods they know so well. At the same time, they are a close familiar immediate link of the residents of the community to the police.

These young men are distinguished by some emblem, but would not necessarily be uniformed police. Many of them would not qualify to be hired as police officers of their particular city because of their lack of educational background or by reason of a minor police record. However, these young men know the youth of their community. They know something about law enforcement through training in the Army or by their local police force. They have a way of communicating that the police do not presently have in our major cities.

Mr. MURPHY. Mr. President, will the Senator yield?

Mr. PERCY. I yield.

Mr. MURPHY. Mr. President, earlier in the colloquy I mentioned the fact that an unfortunate experience had occurred in Los Angeles.

The senior Senator from California [Mr. KUCHEL] joined with me a year ago in discussing the Community Alert Patrol, a group of the sort we are discussing here today, that was to be funded by the Department of Health, Education, and Welfare. There was evidence to show that this group was to do surveillance work and to report police brutality and that it was to work as a separate entity and not necessarily arm in arm with the Los Angeles Police Department.

This was an unfortunate experience.

Mr. President, I ask unanimous consent that an editorial entitled "Alert Patrol?" published in the Los Angeles Herald-Examiner on Thursday, June 8, 1967, and a news release of mine under date of June 3, 1967, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Herald Examiner, June 8, 1967]

ALERT PATROL?

In the face of determined opposition by California's two senators and many other Los Angeles community leaders, it appeared today that the controversial Community Alert Patrol plan may be defeated.

This was to have been financed with a $238,429 Federal grant. Most of this sum would have been spent to support a private patrol by citizens whose principal duties would have been to spy on police and bring to light instances of alleged "police brutality."

But yesterday John Gardner, secretary of Health, Education, and Welfare admitted that:

"It is out of the question for this department to support a project of this nature that

intervenes in the relationship between the police and the local community."

Proponents of the Community Alert Patrol had declared they planned to use the organization as a "buffer" between the police department and citizens of the community.

There was another announced purpose of the Community Alert Patrol in addition to its spying on police. The fund also, it was asserted by its sponsors, would have provided money to rent, equip and maintain a garage at which CAP members could repair their own and neighborhood automobiles.

At the same time it was disclosed that although the $238,429 had been allocated for CAP, the actual assignment of the funds would be held up pending further study.

This action followed shortly after Sen. George Murphy announced he was demanding an investigation.

Senator Murphy requested that funds be held up until Gardner could appear before the Senate Subcommittee on Employment, Manpower, and Poverty to give a full explanation of the huge Federal grant.

Joining Senator Murphy was Senator Thomas Kuchel, Mayor Yorty, Police Chief Tom Reddin and members of the Los Angeles County Republican Committee.

Said Sen. Murphy:

"I particularly want to know why this Federal grant was awarded without formal notification to the Los Angeles Police Department or to Mayor Sam Yorty of Los Angeles.

"I am a firm believer in the theory that locally elected officials are the proper parties for controlling crime, and I also firmly believe that the police departments of this country should be protected from harassment."

This vigilant action by our senators and local officials is to be commended. The fund is too big a handout to be taken for granted and the principle behind it is too important to go unchallenged.

NEWS RELEASE FROM THE OFFICE OF SENATOR GEORGE MURPHY, JUNE 3, 1967

WASHINGTON.—Senator George Murphy, R-Calif., today called for an investigation of a $238,429 Federal grant to the Community Alert Patrol in South Los Angeles and asked that funds be withheld until that time.

Murphy, a member of the Senate Subcommittee on Employment, Manpower and Poverty, said he will ask to have John Gardner, Secretary of Health, Education, and Welfare, appear before the subcommittee to further explain the grant. He said funds should be held up until Gardner clarifies the purpose of the program.

Gardner's department, together with the U.S. Office of Economic Opportunity, recently awarded the Federal grant to the CAP for an experimental year-long program in police-community relations.

In its application, the CAP said it would serve as a "buffer" between the Los Angeles Police Department and residents of "high-crime" areas in Watts and other districts of South Los Angeles. The Federal money would be used to finance a 15-member civilian patrol which would cruise the streets in their own automobiles.

Although the Federal grant was made on the assumption that the patrol would report both criminal acts and evidences of "police brutality," Ronald (Brother Crook) Wilkins, CAP commander, was quoted in Los Angeles newspapers as saying that patrol members will report police brutality but will not report civilian crimes.

"I am concerned over this statement," Senator Murphy said. "I want to know more about this Federal grant, and I particularly want to know why it was awarded without formal notification to the Los Angeles Police Department or to Mayor Sam Yorty of Los Angeles."

"I am a firm believer in the theory that locally elected officials are the proper parties for controlling crime, and I also firmly believe that the police departments of this country should be protected from harassment. If there is any tinge of police harassment in establishment of the Community Alert Patrol I want to know about it and take steps to remedy it."

In its application to HEW for a grant under the Juvenile Delinquency and Youth Offenses Control Act of 1961, the Community Alert Patrol proposed to (1) pay CAP members, some with criminal records, to patrol high-crime areas in their own cars and (2) to rent, equip and maintain a garage at which CAP members would repair their own and neighborhood automobiles.

The application said the CAP would "provide an observant presence on the streets which would function as a protective buffer between the Negro community and the police so as to prevent disorder arising from unlawful acts by either police or citizens."

Senator Murphy noted that Police Chief Thomas Reddin of Los Angeles has said that he was unhappy over the idea of "nonpolicemen policing the police." "In addition to the clarification of the statement that the CAP would observe police but do nothing to prevent crime, I want to get more details on the cost of this program. It seems to me to be rather expensive when only 15 or 20 persons are involved," Senator Murphy said.

Senator Murphy made his request for an investigation by the Senate Subcommittee in a telegram to Senator Joseph Clark, D-Pa., chairman of the Subcommittee.

Mr. MURPHY. Mr. President, it is my intention to make certain that this activity be done with, and only with, the concurrence of the local authorities and the local law enforcement agencies. I would hope the Senator from Illinois would concur.

Mr. PERCY. That is the spirit and intent of the amendment.

Mr. MURPHY. Mr. President, will the Senator accept a language change on page 2, line 3, following the word "section," to strike the period and the quotation marks and insert in lieu thereof a semicolon and the following language:

Provided, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.

Mr. PERCY. I am happy to accept such a modification.

Mr. MURPHY. This would assure us that the unfortunate experience which occurred in Los Angeles would not happen again in other cities. In other words, it would require that funding under the Percy amendment would be dependent on the approval of the local law enforcement agency or the local government.

I thank the Senator.

Mr. PERCY. I believe that the experience in Atlanta and in Miami would bear out the wisdom of the comments made by the distinguished Senator from California, and I ask unanimous consent that the modification be agreed to.

The ACTING PRESIDENT pro tempore. The clerk will state the modification.

The legislative clerk read the modification, as follows:

On page 2, line 3 of the amendment, strike the period and the quotation marks and insert the following: ": *Provided,* That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency."

The ACTING PRESIDENT pro tempore. Is there objection to the modification? The Chair hears none, and the amendment is so modified.

The time of the Senator from Illinois has expired.

Mr. McCLELLAN. Mr. President, I believe the Senate acted wisely in rejecting the part of the amendment that has already been voted upon, because it would have given 90-percent grants for this purpose, whereas no other part of the program would have received such grants from the Federal Treasury. The highest grant in the bill is 75 percent, and that is for dealing with the problems of riots to organized crime.

I should like to call attention to the fact that if we are going to keep expanding the bill, we will put so many words in it that we will not know what is and what is not authorized.

I call attention to section 301 of this title:

SEC. 301. It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement.

* * * * *

(b) Under this part grants may be made pursuant to an application which is approved under section 303 for—

* * * * *

(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.

Now, that is pretty broad language. It seems to me that when we are launching a new program, a new experiment such as this, that language is broad enough. If you are going to try to name everything, to employ people who have no qualifications—and it is admitted that none of them are trained or maybe not even trainable—who is going to train these people who will be employed, who are not suitable to be policemen, who cannot qualify? They would have to be trained to go into schools and into the community to perform some kind of function. We already have the authority in the bill to educate and to do those things that are necessary to prevent lawlessness.

Every time we add something to the bill, we are making an obligation to appropriate more money. We are starting a new program. This is a new experiment. In my opinion, we should hold this experiment down until we can get it started in the vital areas, so we can see how it is operating and can gain some knowledge and experience with it; and then if we need to expand it, we can do so.

You cannot cover everything in one bill without breaking it down. Only $400 million is authorized for all purposes, for the next 2 years. Compared to the gravity of the problem that is just a drop in the bucket. We have just enough money authorized to get some experience in these vital areas. If we keep adding all these things to the bill, the money will be spread so thin that we will not get good results from any of the programs.

Mr. President, I am ready to vote.

The ACTING PRESIDENT pro tem-

pore. Does the Senator yield back the remainder of his time?

Mr. McCLELLAN. I yield back the remainder of my time.

Mr. PERCY. Mr. President, will the Senator yield for a comment?

Mr. McCLELLAN. I yield. I might have to ask for another minute.

Mr. PERCY. I should like to reply to one comment made by the distinguished Senator.

The Law Enforcement Assistance Act has been in effect now for 3 years. This form of assistance is not new. My amendment will simply fill a need, supported by two Presidential commissions, in recommending a new approach to solve a problem that we simply have not been very effective in solving to date.

I thank the Senator.

The ACTING PRESIDENT pro tempore. All time on the amendment has expired.

The question is on agreeing to the second part of the amendment offered by the Senator from Illinois, as modified.

(The second part of the amendment (No. 749), as modified, reads as follows:)

On page 21, between lines 19 and 20, insert the following new subcategory:

"(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement agency.

On page 43, between lines 8 and 9, insert the following new definition:

"(L) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act."

The ACTING PRESIDENT pro tempore. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Arkansas [Mr. FULBRIGHT], the Senator from Tennessee [Mr. GORE], the Senator from Oklahoma [Mr. HARRIS], the Senator from South Carolina [Mr. HOLLINGS], the Senator from New York [Mr. KENNEDY], the Senator from Ohio [Mr. LAUSCHE], the Senator from Washington [Mr. MAGNUSON], the Senator from Minnesota [Mr. McCARTHY], the Senator from Wyoming [Mr. McGEE], the Senator from New Hampshire [Mr. McINTYRE], the Senator from Minnesota [Mr. MONDALE], the Senator from Oklahoma [Mr. MONRONEY], the Senator from New Mexico [Mr. MONTOYA], the Senator from Oregon [Mr. MORSE], the Senator from Connecticut [Mr. RIBICOFF], and the Senator from Florida [Mr. SMATHERS] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. INOUYE], the Senator from Utah [Mr. MOSS], and the Senator from West Virginia [Mr. RANDOLPH] are absent on official business.

I further announce that, if present and voting, the Senator from New York [Mr. KENNEDY], the Senator from New Mexico [Mr. MONTOYA], and the Senator from Washington [Mr. MAGNUSON] would each vote "yea."

On this vote, the Senator from Oregon [Mr. MORSE] is paired with the Senator from West Virginia [Mr. RANDOLPH]. If present and voting, the Senator from Oregon would vote "yea," and the Senator from West Virginia would vote "nay."

On this vote, the Senator from Connecticut [Mr. RIBICOFF] is paired with the Senator from South Carolina [Mr. HOLLINGS]. If present and voting, the Senator from Connecticut would vote "yea," and the Senator from South Carolina would vote "nay."

Mr. DIRKSEN. I announce that the Senator from New Jersey [Mr. CASE] is absent on official business.

The Senator from California [Mr. KUCHEL] and the Senator from Wyoming [Mr. HANSEN] are necessarily absent.

On this vote, the Senator from California [Mr. KUCHEL] is paired with the Senator from Wyoming [Mr. HANSEN]. If present and voting, the Senator from California would vote "yea," and the Senator from Wyoming would vote "nay."

The result was announced—yeas 40, nays 38, as follows:

[No. 132 Leg.]

YEAS—40

Aiken	Hart	Nelson
Anderson	Hartke	Pastore
Baker	Hatfield	Pearson
Bayh	Jackson	Pell
Boggs	Javits	Percy
Brooke	Jordan, Idaho	Prouty
Carlson	Kennedy, Mass.	Proxmire
Clark	Long, Mo.	Scott
Cooper	Mansfield	Symington
Dirksen	McGovern	Tydings
Dodd	Miller	Yarborough
Dominick	Morton	Young, Ohio
Fong	Murphy	
Griffin	Muskie	

NAYS—38

Allott	Ellender	Mundt
Bartlett	Ervin	Russell
Bennett	Fannin	Smith
Bible	Gruening	Sparkman
Brewster	Hayden	Spong
Burdick	Hickenlooper	Stennis
Byrd, Va.	Hill	Talmadge
Byrd, W. Va.	Holland	Thurmond
Cannon	Hruska	Tower
Church	Jordan, N.C.	Williams, N.J.
Cotton	Long, La.	Williams, Del.
Curtis	McClellan	Young, N. Dak.
Eastland	Metcalf	

NOT VOTING—22

Case	Kuchel	Montoya
Fulbright	Lausche	Morse
Gore	Magnuson	Moss
Hansen	McCarthy	Randolph
Harris	McGee	Ribicoff
Hollings	McIntyre	Smathers
Inouye	Mondale	
Kennedy, N.Y.	Monroney	

So the second part of the amendment (No. 749) offered by the Senator from Illinois [Mr. PERCY], as modified, was agreed to.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the second part of the amendment as modified was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPLANATION BY SENATOR RANDOLPH

Mr. RANDOLPH subsequently said: Mr. President, earlier today, I was unable to answer the three rollcalls on amendments to the pending Omnibus Crime Control and Safe Streets Act. The reason for my absence was that I was in my home community of Elkins to vote in the West Virginia primary election.

Mr. SCOTT was recognized.

Mr. MANSFIELD. Mr. President, will the Senator yield to me briefly?

Mr. SCOTT. I yield to the majority leader.

ORDER IN THE SENATE

Mr. MANSFIELD. Mr. President, I ask that the Chamber be cleared except for those persons who have a right to be here and that those persons who are here be seated.

The ACTING PRESIDENT pro tempore. The Senator has made a point of order that is very appropriate. The Chamber will be cleared of all persons who do not have official business on the floor of the Senate. The Senate is not in order. The conversations in the rear of the Chamber will cease. All those people who are in the rear of the Chamber who do not have official business will leave the Chamber. The Sergeant at Arms is instructed to carry out the order of the Chair. It is the desire of the Chair that the Chamber be cleared.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. SCOTT. I yield to the Senator from Kansas.

VISIT TO THE SENATE BY MEMBERS OF CONGRESS OF VENEZUELA

Mr. CARLSON. Mr. President, it is my privilege to introduce to the Senate five distinguished Members of the Congress of Venezuela who are visiting the Capitol today. Two are Members of the Senate and three are Members of the Chamber of Deputies.

It is always an honor to have with us Members of the Congress of Venezuela, for their country is one of the countries of Latin America with which we have the best relations. Venezuela has been in the forefront of the Alliance for Progress; it has successfully resisted subversive efforts directed from Cuba; it is an example for the rest of Latin America. I am most happy and honored to present to the Senate Dr. Aristides Fernández, of Anaco, Member of the Venezuelan Senate, Union Republicana Democratica Party; Dr. Godofredo González, of Caracas, Member of the Chamber of Deputies, COPEI Party, a former Minister of Development; Dr. Guillermo Muñoz, of Caracas, Member of the Chamber of Deputies for Movimiento Electoral del Pueblo Party, Chairman of the Finance Committee of the Chamber of Deputies; Dr. Enrique Betancourt G., a lawyer from Caracas, Member of the Chamber of Deputies, Union Republicana Democratica Party, former Speaker of the

Chamber of Deputies; and Dr. Pedro Battistini C., of Caracas, Member of the Senate of Venezuela, Accion Democratica Party, former Governor of the State of Bolivar.

[The distinguished visitors rose in their places and were greeted with applause, Senators rising.]

Mr. CARLSON. Mr. President, I ask unanimous consent to have printed in the RECORD the list of participants in the 1968 seminar for Venezuelan opinion leaders.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF PARTICIPANTS IN 1968 SEMINAR FOR VENEZUELAN OPINION LEADERS

Dr. Oswald Visla Bermúdez, Lawyer, university professor, Maracaibo.

Sr. Euro Fuenmayor, Feature editor of "El Nacional," Caracas.

Sr. Rómulo Martinez, Editor of "El Regional," Valencia.

Sr. Luís Garcia, Promotion manager, Capriles newspapers, Caracas.

Sr. Luís Alfredo Chávez, Managing director, "El Universal," Caracas.

Dr. Manuel Delgado Ocando, Rector, University of Zulia, Maracaibo.

Dr. Juan Galeazzi, Former Governor, State of Tachira, San Cristobal.

Dr. Aristides Fernández,[1] Member of Venezuelan Senate for Union Republicana Democratica Party, Anaco.

Dr. Godofredo González,[1] Member of Chamber of Deputies for COPEI Party, former Minister of Development, Caracas.

Sr. Joffre Paúl Jatem, Businessman, Punto Fijo.

Dr. Guillermo Muñoz,[1] Member of Chamber of Deputies for Movimiento Electoral del Pueblo Party, chairman, Finance Committee of Chamber, Caracas.

Dr. Enrique Betancourt G.,[1] Member of Chamber of Deputies for URD Party, former Speaker of Chamber, lawyer, Caracas.

Dr. José Luís Bonnemaison, Rector, University of Carabobo, Valencia.

Dr. Efraín Schacht Aristiguieta, Lawyer, former Director General of Foreign Ministry, university professor, Frente Nacional Democratico Party.

Dr. Pedro Battistini C.,[1] Member of Senate for Accion Democratica Party, former Governor, State of Bolivar, Caracas.

Sr. Vicente Cupello, Travel Coordinator, North American Association, Caracas.

Sr. Marco Aurelio Rodríguez, Travel Coordinator, NAA, Caracas.

RECESS

Mr. CARLSON. Mr. President, I move that the Senate stand in recess for 2 minutes in order that Senators may greet our distinguished visitors.

The motion was agreed to; and (at 2 o'clock and 19 minutes p.m.) the Senate took a recess until 2:21 p.m.

During the recess, the distinguished guests were greeted by Members of the Senate.

On expiration of the recess, the Senate reassembled and was called to order by the Presiding officer (Mr. BYRD of Virginia).

TRIBUTE TO MEDAL OF HONOR RECIPIENT JAMES ELLIOTT WILLIAMS

Mr. THURMOND. Mr. President, I rise in tribute to a fellow South Carolinian who has just been awarded our Nation's highest and most esteemed military decoration—the Medal of Honor.

The winner of this most coveted award, who is visiting the Senate today, is James Elliott Williams, now a resident of Darlington, S.C., where he makes his home after spending 20 years on active duty in the U.S. Navy. James Elliott Williams is one of the most highly decorated men in the military service. For action during the Korean war and the war in Vietnam he has been awarded the Medal of Honor, the Navy Cross, the Silver Star, Navy and Marine Corps Medal, two Bronze Star Medals, Navy Commendation Medal, and two Purple Hearts. In addition, he had earned seven campaign ribbons and the Vietnamese Gallantry Cross.

Most of Mr. Williams' medals for gallantry were awarded for his service as commander of a river patrol boat in Vietnam from April 1966 to March 1967. The river patrol boat—PBR—has rendered invaluable service to the cause of the United States and her allies in South Vietnam, and is used primarily in patrol of the immense system of waterways that crisscross through the Vietnam jungles.

Having achieved the rank of boatswain mate first class, James Williams was, on his arrival in Vietnam, assigned as boat captain and patrol officer of a river patrol boat on the Mekong River. In addition, as a senior petty officer of the river command, Williams also was in overall command of a force of four patrol boats during the 11 months that he was on combat duty in the delta of South Vietnam. Many times he took his boats into a hail of fire from the enemy, and successfully destroyed numerous sampans and junks. On one occasion he captured a number of secret Vietcong documents which were of vital importance to the United States and friendly forces.

On another occasion he rescued survivors from a sunken dredge, personally swimming inside the sinking hull and bringing one wounded man to safety. The incident for which the President awarded him the Medal of Honor, occurred on October 31, 1966. At that time Petty Officer Williams was on patrol with his own boat and one other patrol boat when they encountered an enemy concentration of sampans and troops concealed in the foliage along the shore.

In utter disregard for his own safety he often exposed himself to enemy fire in order to direct the fire of his own craft and to inspire his men. Although opposed by an overwhelming concentration of enemy boats and out-gunned by heavy automatic weapons, Williams displayed great initiative and promptly led his patrol boat into action.

During the 3-hour fight, the two boats under Williams' command accounted for the destruction or loss of 65 enemy boats and inflicted numerous casualties on the Vietcong.

It was characteristic of this determined leader that he ordered the patrol boats' searchlights turned on to better illuminate the area and to press on his attack. He did this even though the search lights made his own craft better targets for the enemy and his own supply of ammunition was getting perilously low.

Having completed 20 years' service at the age of 37, Boatswain Mate Williams retired from the Navy in April of 1967. He, his wife and their five children chose Darlington, S.C., for their home. At present he is employed as a security officer and is seeking election this year as the Darlington County sheriff on the Republican ticket. His parents, Mr. and Mrs. Roy Franklin Williams, also of Darlington, are indeed proud of their son. They are not alone. All of South Carolina, the Navy, the Armed Forces, and the country are proud of James Williams and the other brave men like him who have given so much for their country.

It has been my pleasure today to see Mr. Williams for the second time. Last month I attended the ceremony in Florence, S.C., where Adm. J. S. Dorsey, commandant of the 6th Naval District, presented Mr. Williams with the Navy Cross for another river action in which he destroyed a force of nine enemy craft, killing 16 Vietcong and wounding 20. Admiral Dorsey remarked at the time that it was significant that during these 11 months of combat, in which Williams conducted numerous patrols and fought many engagements, he only lost one of his men during the entire period. This speaks well of his leadership and his courage.

Mr. President, I am proud to have the honor of reciting the accomplishments of this brave man, and I am also proud to call him my friend. In conclusion, I ask unanimous consent that a biographical data sheet on Mr. Williams and the complete citation for his Medal of Honor be printed in the RECORD.

There being no objection, the data sheet and citation were ordered to be printed in the RECORD, as follows:

JAMES ELLIOTT WILLIAMS, U.S. NAVY

(Biographical data)

Date of Birth: 13 June 1930.

Place of Birth: Rock Hill, South Carolina.

Next of Kin: Wife: Mrs. Elaine W. Williams, Box 425A, Route 5, Darlington, South Carolina; Children: Deborah Kay Williams (daughter), James Elliott Williams, Jr. (son), Stephen Michael Williams (son), Charles Edward Williams (son), Gail Marie Williams (daughter), (address same as above); Parents: Mr. and Mrs. Roy Franklin Williams, R.F.D. #5, Darlington, South Carolina 29532. 29532.

Religion: Protestant.

Date of Enlistment: August 8, 1947, at Columbia, South Carolina.

Promotions: 8 August 1947—Apprentice Seaman; 6 November 1947—Seaman Second Class; 16 March 1949—Seaman; 1 January 1955—Boatswain's Mate Third Class; 16 November 1960—Boatswain's Mate Second Class; 16 November 1963—Boatswain's Mate First Class.

Hostile opposition: Morale high. Preparing full scale troop movement. Approximately 60 sampans and 11 junks carrying insurgent troops were detected. Many enemy emplacements positioned in area. 28 sampans sunk, 25 sampans damaged, 3 sampans and 3 junks captured, 2 killed in action.

Defenders' situation: Two Swift Boats (PBRs) with Petty Officer Williams as boat captain and patrol officer spotted two enemy sampans and after killing the occupants of one began to pursue the other.

Narrative description of gallant conduct: (Please see attached press release.)

Decorations and Medals: Navy Cross, Silver Star Medal, Navy and Marine Corps Medal, Bronze Star Medal with Combat Distinguishing Device, Gold Star in lieu of second Bronze

[1] Members of Congress of Venezuela.

Star Medal with Combat Distinguishing Device; Navy Commendation Medal with Combat Distinguishing Device; Purple Heart; Gold Star in lieu of second Purple Heart; Good Conduct Medal with four bronze stars in lieu of subsequent awards; National Defense Service Medal with bronze star; Korean Service Medal; Armed Forces Expeditionary Medal; Vietnam Service Medal; Vietnamese Gallantry Cross with bronze star; United Nations Service Medal; Korean Presidential Unit Citation; Republic of Vietnam Campaign Medal.

CITATION

The President of the United States in the name of The Congress takes pleasure in presenting the Medal of Honor to Boatswain's Mate First Class James E. Williams, United States Navy for service as set forth in the following Citation:

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as a member of River Section 531 during combat operations on the Mekong River in the Republic of Vietnam. On 31 October 1966, Petty Officer Williams was serving as Boat Captain and Patrol Officer aboard River Patrol Boat (PBR) 105 accompanied by another patrol boat when the patrol was sudenly taken under fire by two enemy sampans. Petty Officer Williams immediately ordered the fire returned, killing the crew of one enemy boat and causing the other sampan to take refuge in a nearby river inlet. Pursuing the fleeing sampan, the U.S. patrol encountered a heavy volume of small arms fire from enemy forces, at close range, occupying well-concealed positions along the river bank. Maneuvering through this fire, the patrol confronted a numerically superior enemy force aboard two enemy junks and eight sampans augmented by heavy automatic weapons fire from ashore. In the savage battle that ensued, Petty Officer Williams, with utter disregard for his own safety, exposed himself to the withering hail of enemy fire to direct counter-fire and inspire the actions of his patrol. Recognizing the overwhelming strength of the enemy force, Petty Officer Williams deployed his patrol to await the arrival of armed helicopters. In the course of this movement he discovered an even larger concentration of enemy boats. Not waiting for the arrival of the armed helicopters, he displayed great initiative and boldly led the patrol through the intense enemy fire and damaged or destroyed fifty enemy sampans and seven junks. This phase of the action completed, and with the arrival of the armed helicopters, Petty Officer Williams directed the attack on the remaining enemy force. Now virtually dark, and although Petty Officer Williams was aware that his boats would become even better targets. he ordered the patrol boats' search lights turned on to better illuminate the area and moved the patrol perilously close to shore to press the attack. Despite a waning supply of ammunition the patrol successfully engaged the enemy ashore and completed the rout of the enemy force. Under the leadership of Petty Officer Williams, who demonstrated unusual professional skill and indomitable courage throughout the three hour battle, the patrol accounted for the destruction or loss of sixty-five enemy boats and inflicted numerous casualties on the enemy personnel. His extraordinary heroism and exemplary fighting spirit in the face of grave risks inspired the efforts of his men to defeat a larger enemy force, and are in keeping with the finest traditions of the United States Naval Service.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. SCOTT. Mr. President——

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. DIRKSEN. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. DIRKSEN. Mr. President, I send to the desk an amendment in the nature of a substitute for title IV of Senate bill 917 and ask that it be called up and made the pending business.

Mr. HRUSKA. Would the Senator from Illinois withdraw that last statement?

Mr. DIRKSEN. I withdraw the last part of my request.

Mr. HRUSKA. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. HRUSKA. Mr. President, I call up my amendment No. 708 and offer it as a substitute for the amendment just offered by the distinguished Senator from Illinois. He withdrew his request to make it the pending business.

Mr. DIRKSEN. Mr. President, I renew my original request to make it the pending business.

The PRESIDING OFFICER. The clerk will state the amendment in the nature of a substitute.

The legislative clerk proceeded to read the amendment.

Mr. DIRKSEN. Mr. President, I ask unanimous consent that further reading of the amendment in the nature of a substitute for title IV be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and the amendment will be printed in the RECORD at this point.

The amendment in the nature of a substitute, offered by Mr. DIRKSEN, is as follows:

On page 80, beginning with line 15, strike out through line 4 on page 107 and insert in lieu thereof the following:

"TITLE IV. FIREARMS AMENDMENTS

"SEC. 901. The first section of the Federal Firearms Act (52 Stat. 1250; 15 U.S.C. § 901) is amended to read as follows:

"'That as used in this Act—

"'(1) The term "person" includes an individual, partnership, association, or corporation.

"'(2) The term "interstate or foreign commerce" means commerce between any State or possession (not including the Canal Zone), or District of Columbia, and any place outside thereof; or between points within the same State or possession (not including the Canal Zone), or the District of Columbia, but through any place outside thereof; or within any possession or the District of Columbia. The term "State" shall be held to include the Commonwealth of Puerto Rico and the District of Columbia.

"'(3) The term "firearm" means any weapon, by whatsoever name known, which will, or is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive, the frame or receiver of any such weapon, or any firearm muffler or firearm silencer.

"'(4) The term "handgun" means any pistol or revolver originally designed to be fired by the use of a single hand, and which is designed to fire or capable of firing fixed cartridge ammunitions or any other firearm originally designed to be fired by the use of a single hand or which has an overall length of less than twenty-six inches.

"'(5) The term "manufacturer" means any person engaged in the manufacture or importation of firearms for purposes of sale or distribution; and the term 'licensed manufacturer' means any such person licensed under the provisions of this Act.

"'(6) The term "dealer" means (a) any person engaged in the business of selling firearms at wholesale or retail; (b) any person engaged in the business of repairing such firearms or of manufacturing or fitting special barrels, stocks, or trigger mechanisms to firearms, or (c) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this Act.

"'(7) The term "fugitive from justice" means any person who has fled from any State, the District of Columbia, or possession of the United States, (a) to avoid prosecution for a crime punishable by imprisonment for a term exceeding one year; or (b) to avoid giving testimony in any criminal proceeding.

"'(8) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the repayment of money loaned thereon.

"'(9) The term "Secretary" or "Secretary of the Treasury" means the Secretary of the Treasury or his delegate.

"'(10) The term "indictment" includes an indictment or any information in any court of the United States, the several States, possessions, or the District of Columbia under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

"'(11) The term "crime punishable by imprisonment for a term exceeding one year" shall not include any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate.'

"SEC. 902. (a) Subsections (a), (b), (d), (e), (g), and (h) of section 2 of the Federal Firearms Act are amended by striking out the words 'or ammunition' wherever they appear.

"(b) Subsection (d) of section 2 of such Act is amended by striking out the word 'Territories'.

"(c) Subsection (f) of section 2 of such Act is amended to read as follows:

"'(f) It shall be unlawful for any person who is under indictment or who has been convicted by any court of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice, to receive any firearm which has been shipped or transported in interstate or foreign commerce.'

"(d) Subsection (i) of section 2 of such Act is amended by striking out the words 'and the possession of any such firearm shall be presumptive evidence that such firearm was transported, shipped, or received, as the case may be, by the possessor in violation of this Act.'

"(e) Section 2 of such Act is amended by adding at the end thereof the following new subsections:

"'(j) It shall be unlawful for any manufacturer or dealer knowingly to deliver, or cause to be delivered, to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed dealers or manufacturers, any package or other container in which there is any handgun as defined in this Act, or any firearm as defined in section 5848 (1) of the Internal Revenue Code of 1954, without written notice to the carrier that handguns or such firearms are being transported or shipped.

"'(k) It shall be unlawful for any common or contract carrier to deliver, or cause to be delivered, in interstate or foreign commerce any handgun as defined in this Act, or any firearm as defined in section 5848(1)

of the Internal Revenue Code of 1954 to any person with knowledge or with reasonable cause to believe that such person is under eighteen years of age.

"'(l) It shall be unlawful for any manufacturer or dealer to ship any firearm as defined in section 5848(1) of the Internal Revenue Code of 1954 in interstate or foreign commerce to any person other than a licensed manufacturer or licensed dealer or person exhibiting a license as prescribed in subsection (c) of this section.

"'(m) It shall be unlawful for any manufacturer or dealer to ship any handgun as defined in this Act in interstate or foreign commerce to any person other than a licensed manufacturer or licensed dealer or person exhibiting a license as prescribed in subsection (c) of this section, unless the person to whom such handgun is to be so shipped has submitted to such manufacturer or dealer a sworn statement in such form and manner as the Secretary shall by regulation prescribe, to the effect that such person (1) is eighteen years or more of age; (2) that he is not a person prohibited by this Act from receiving a handgun in interstate or foreign commerce; and (3) that there are no provisions of law, regulations, or ordinances applicable to the locality to which the handgun will be shipped, which would be violated by such person's receipt or possession of the handgun. Such sworn statement shall contain the true name and address of the principal law enforcement officer of the locality to which the handgun will be shipped. It shall be unlawful unless such manufacturer or dealer has, prior to the shipment of such handgun, forwarded by United States registered mail (return receipt requested) to the local law enforcement officer named in the sworn statement, the description (including (1) manufacturer thereof, (2) the caliber, (3) the model and type of handgun but not including serial number identification) of the handgun to be shipped, and one copy of the sworn statement, and has received a return receipt evidencing delivery of the registered letter or such registered letter has been returned to the manufacturer or dealer due to the refusal of the named law enforcement officer to accept such letter as evidenced in accordance with United States Post Office Department regulations. It shall be unlawful for any person to cause to be transmitted to United States mail or to cause to be transported in interstate or foreign commerce such a sworn statement which contains any false statement as to any material fact for the purpose of obtaining a handgun.'

"SEC. 903. Section 3 of the Federal Firearms Act is amended to read as follows:

"'SEC. 3. (a) Any manufacturer or dealer desiring a license to transport, ship, or receive firearms in interstate or foreign commerce shall file an application for such license with the Secretary, in such form and containing such information as the Secretary shall by regulation prescribe. Each such applicant shall be required to pay a fee for obtaining such license as follows:

"'(1) If a manufacturer of firearms, a fee of $50 per annum;

"'(2) If a dealer (other than a pawnbroker) in firearms, a fee of $10 per annum; or

"'(3) If a pawnbroker, a fee of $50 per annum.

"'(b) Upon filing by a qualified applicant of a proper application and the payment of the prescribed fee, the Secretary shall issue to such applicant the license applied for, which shall, subject to the provisions of this Act, entitle the licensee to transport, ship, and receive firearms in interstate or foreign commerce during the period stated in the license. Except that, no license shall be issued pursuant to this Act (1) to any applicant who is under twenty-one years of age; or (2) to any applicant, if the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is prohibited by the provisions of this Act from transporting, shipping, or receiving firearms in interstate or foreign commerce.

"'(c) The provisions of section 2 (d), (e), and (f) of this Act shall not apply in the case of a licensed manufacturer or licensed dealer who is under indictment for a crime punishable by imprisonment for a term exceeding one year, providing that such manufacturer or dealer gives notice to the Secretary by registered or certified mail of his indictment within thirty days of the date of the indictment. A licensed manufacturer or licensed dealer who has given notice of his indictment to the Secretary, as provided in this subsection, may continue operations pursuant to his existing license during the term of such indictment, and until any conviction pursuant to the indictment becomes final, whereupon he shall be fully subject to all provisions of this Act and operations pursuant to such license shall be discontinued.

"'(d) Each licensed manufacturer and licensed dealer shall maintain such permanent records of production, importation, shipment, and other disposal of firearms as the Secretary may by regulation prescribe.'

"SEC. 904. Section 4 of the Federal Firearms Act is amended to read as follows:

"'SEC. 4. (a) The provisions of this Act shall not apply with respect to the transportation, shipment, receipt, or importation of any firearms sold or shipped to, or issued for the use of (1) the United States or any department, independent establishment, or agency thereof; (2) any State, or possession, or the District of Columbia, or any department, independent establishment, agency, or any political subdivision thereof; (3) any duly commissioned officer or agent of the United States, a State, or possession, or the District of Columbia, or any political subdivision thereof; (4) to any bank, public carrier, express, or armored-truck company organized and operating in good faith for the transportation of money and valuables, which is granted an exemption by the Secretary; (5) to any research laboratory designated as such by the Secretary; or (6) to the transportation, shipment, or receipt of antique or unserviceable firearms (other than a 'firearm' as defined in section 5848(1) of the Internal Revenue Code of 1954) possessed and held as a curio or museum piece.

"'(b) Nothing contained in this Act shall be construed to prevent shipments of firearms to institutions, organizations, or persons to whom firearms may be lawfully delivered by the Secretary of Defense or his delegate, nor to prevent the receipt or transportation of such firearms by their lawful possessors while they are engaged in military training or in competitions.'

"SEC. 905. (a) Subsection (b) of section 5 of the Federal Firearms Act is amended by striking out the words 'or ammunition.'

"(b) Subsection (b) of section 5 of such Act is further amended by striking out the words 'title 26' where they first appear and inserting in lieu thereof the words 'the Internal Revenue Code of 1954', and by striking out the words 'section 2733 of title 26' and inserting in lieu thereof the words 'section 5848 of said Code.'

"SEC. 906. The Federal Firearms Act is amended by adding at the end thereof the following new section:

"'SEC. 11. Nothing in this Act shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war.'

"SEC. 907. The amendments made by this title shall become effective on the first day of the second month beginning after the date of enactment of this title."

AMENDMENT NO. 708

Mr. HRUSKA. Mr. President, will the distinguished Senator from Pennsylvania yield further to me, without losing his right to the floor?

Mr. SCOTT. I yield.

Mr. HRUSKA. Mr. President, I call up my amendment No. 708 and propose it as a substitute for the pending business, which is an amendment in the nature of a substitute for the amendment just offered by the distinguished Senator from Illinois.

The PRESIDING OFFICER. The clerk will state the amendment.

The LEGISLATIVE CLERK. The Senator from Nebraska proposes:

TITLE IV—FIREARMS AMENDMENTS

PART A—FEDERAL FIREARMS ACT AMENDMENTS

SEC. 901. The first section of the Federal Firearms Act is amended to read:

"That as used in this Act—

"(1) The term 'person' includes an individual, partnership, association, or corporation.

"(2) The term 'State' includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

"(3) The term 'interstate or foreign commerce' means commerce between any State and any place outside thereof; or between points within the same State, but through any place outside thereof; or within any possession or the District of Columbia.

"(4) The term 'firearm', except when the context otherwise requires, means any weapon, manufactured after the year 1898, by whatsoever name known, which will, or is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive or the frame or receiver of any such weapon.

"(5) The term 'handgun' means any pistol or revolver originally designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition, or any other firearm originally designed to be fired by the use of a single hand.

"(6) The term 'manufacturer' means any person engaged in the business of manufacturing or importing firearms for purposes of sale or distribution. The term 'licensed manufacturer' means any such person licensed under the provisions of this Act.

"(7) The term 'dealer' means any person engaged in the business of selling firearms at wholesale or retail, or any person engaged in the business of repairing such firearms or of manufacturing or fitting barrels, stocks, or trigger mechanisms to firearms, or any person who is a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of this Act.

"(8) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the repayment of money loaned thereon.

"(9) The term 'Secretary' means the Secretary of the Treasury or his designee.

"(10) The term 'indictment' includes an indictment or any information in any court of the United States or in any court of any State under which a crime of violence may be prosecuted.

"(11) The term 'fugitive from justice' means any person who has fled from any State to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding.

"(12) The term 'published ordinance' means a published law of any political sub-

division of a State which the Secretary of the Treasury determines to be relevant to the enforcement of this Act and which is contained on a list compiled by the Secretary of the Treasury which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this Act."

SEC. 902. Section 2 of the Federal Firearms Act is amended to read:

"(a) It shall be unlawful for any manufacturer or dealer, except a manufacturer or dealer having a license issued under the provisions of this Act, to transport, ship, or receive any firearm in interstate or foreign commerce.

"(b) It shall be unlawful for any person to receive any firearm transported or shipped in interstate or foreign commerce in violation of subsection (a) of this section, knowing or having reasonable cause to believe such firearm to have been transported or shipped in violation of said subsection.

"(c) It shall be unlawful for any licensed manufacturer or licensed dealer to ship or transport, or cause to be shipped or transported, any firearm in interstate or foreign commerce, to any person in any State where the receipt or possession by such person of such firearm would be in violation of any statute of such State or of any published ordinance applicable in the locality in which such person resides unless the licensed manufacturer or licensed dealer establishes that he was unable to ascertain with reasonable effort that such receipt or possession would be in violation of such State law or such ordinance.

"(d) It shall be unlawful for any person to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm to any person knowing or having reasonable cause to believe that such person is under indictment for or has been convicted in any court of the United States or in any court of any State of a crime punishable by imprisonment for a term exceeding one year, or is a fugitive from justice.

"(e) It shall be unlawful for any person who is under indictment for or who has been convicted of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice to ship, transport, or cause to be shipped or transported in interstate or foreign commerce any firearm.

"(f) It shall be unlawful for any person who is under indictment for or who has been convicted of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice, to receive any firearm which has been shipped or transported in interstate or foreign commerce.

"(g) It shall be unlawful for any person to transport or ship or cause to be transported or shipped in interstate or foreign commerce any stolen firearm, knowing, or having reasonable cause to believe, such firearm to have been stolen.

"(h) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any firearm or to pledge or accept as security for a loan any firearm moving in or which is a part of interstate or foreign commerce, and which while so moving or constituting such part has been stolen, knowing, or having reasonable cause to believe, such firearm to have been stolen.

"(i) It shall be unlawful for any person to transport, ship, or knowingly receive in interstate or foreign commerce any firearm from which the manufacturer's serial number has been removed, obliterated, or altered.

"(j) It shall be unlawful for any manufacturer or dealer knowingly to deliver, or cause to be delivered, to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed manufacturers or licensed dealers, any package or other container in which there is any handgun without written notice to the carrier that such handgun is being transported or shipped.

"(k) It shall be unlawful for any common or contract carrier to deliver, or cause to be delivered, in interstate or foreign commerce any handgun to any person with knowledge or with reasonable cause to believe that such person is under twenty-one years of age or any firearm to any person with knowledge or with reasonable cause to believe that such person is under eighteen years of age.

"(l) It shall be unlawful for any licensed manufacturer or licensed dealer to ship any handgun in interstate or foreign commerce to any person other than another licensed manufacturer or licensed dealer unless:

"(1) such person has submitted to such manufacturer or dealer a sworn statement in the following form: 'Subject to penalties provided by law, I swear that I am twenty-one years or more of age; that I am not prohibited by the Federal Firearms Act from receiving a handgun in interstate or foreign commerce; and that my receipt of this handgun will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the handgun will be shipped are _____. Signature _____ Date _____', and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance.

"(2) such manufacturer or dealer has, prior to the shipment of such handgun, forwarded by registered or certified mail (return receipt requested) to (A) the local law enforcement officer named in the sworn statement, or (B) the official designated by the Governor of the State concerned under this subsection, a description of the handgun to be shipped (including the manufacturer, the caliber, the model, and type of such handgun, but not including serial number identification), and one copy of the sworn statement, and has received a return receipt evidencing delivery of such letter, or such letter has been returned to such manufacturer or dealer due to the refusal of the named law enforcement officer or designated official to accept such letter in accordance with United States Post Office Department regulations; and

"(3) such manufacturer or dealer has delayed shipment for a period of at least seven days following receipt of the notification of the local law enforcement officer's or designated official's acceptance or refusal of such letter.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer or designated official along with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 3(d). For purposes of paragraph (2)(B), the Governor of any State may designate any official in his State to receive such notification for such State or any part thereof in lieu of the notification required by paragraph 2(A) and shall notify the Secretary of the name, title, and business address of such official and the Secretary shall publish in the Federal Register the name, title, and address of such official. Upon such publication, notification to the local law enforcement officers required under paragraph (2)(A) of this subsection will not be required for a period of five years from the date of such publication unless the request is withdrawn by the Governor of such State and such withdrawal is published in the Federal Register.

"(m) It shall be unlawful for any licensed manufacturer or licensed dealer to sell or deliver for sale any handgun to any person other than another licensed manufacturer or licensed dealer who is not a resident of the State in which such manufacturer's or dealer's place of business is located and in which the sale or delivery for sale is made, unless such manufacturer or dealer has, prior to sale, or delivery for sale of the handgun, complied with the provisions of subsection (1) of this section.

"(n) It shall be unlawful for any person in connection with the acquisition or attempted acquisition of a firearm from a licensed manufacturer or licensed dealer to—

"(1) knowingly make any false or fictitious statement, written or oral; or

"(2) knowingly furnish or exhibit any false, fictitious, or misrepresented identification with the intention to deceive such manufacturer or dealer with respect to any fact material to the lawfulness of the sale or other disposition of a firearm by a licensed manufacturer or licensed dealer under the provisions of this section.

"(o) It shall be unlawful for any person to transport or receive in the State where he resides a firearm purchased or otherwise obtained by him outside the State where he resides if it would be unlawful for him to purchase or possess such firearm in the State (or political subdivision thereof) where he resides."

SEC. 903. Section 3 of the Federal Firearms Act is amended to read:

"SEC. 3. (a) Any manufacturer or dealer desiring a license to transport, ship, or receive firearms in interstate or foreign commerce shall file an application for such license with the Secretary, in such form and containing such information as the Secretary shall by regulation prescribe. Each such applicant shall be required to pay a fee for obtaining such license as follows:

"(1) If a manufacturer of firearms, a fee of $50 per annum;

"(2) If a dealer (other than a pawnbroker) in firearms, a fee of $10 per annum, except that for the first renewal following the effective date of the Federal Firearms Amendments of 1968 or for the first year he is engaged in business as a dealer such dealer will pay a fee of $25;

"(3) If a pawnbroker, a fee of $50 per annum.

"(b) Upon filing by a qualified applicant of a proper application and the payment of the prescribed fee, the Secretary shall issue to such applicant the license applied for, which shall, subject to the provisions of this Act, entitle the licensee to transport, ship, sell, and receive firearms in interstate or foreign commerce during the period stated in the license. No license shall be issued pursuant to this Act—

"(1) to any applicant who is under 21 years of age;

"(2) to any applicant, if the applicant (including, in the case of a corporation, partnership, or association, any individual who, directly or indirectly, has the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is prohibited by the provisions of this Act from transporting, shipping, selling, or receiving firearms in interstate or foreign commerce;

"(3) to any applicant who has willfully violated any of the provisions of this Act or regulations issued thereunder; or

"(4) to any applicant who has willfully failed to disclose any material information required, or made any false statement as to any material fact, in connection with his application.

"(c) The provisions of section 2 (d), (e), and (f) of this Act shall not apply in the case of a licensed manufacturer or licensed dealer who is under indictment for a crime punishable by imprisonment for a term exceeding one year: *Provided,* That such manufacturer or dealer gives notice to the Secretary by registered or certified mail of his indictment within thirty days of the date of the indictment. A licensed manufacturer or

licensed dealer who has given notice of his indictment to the Secretary, as provided in this subsection, may continue operation pursuant to his existing license during the term of such indictment, and until any conviction pursuant to the indictment becomes final, whereupon he shall be fully subject to all provisions of this Act, and operations pursuant to such license shall be discontinued.

"(d) Each licensed manufacturer and licensed dealer shall maintain such records of production, importation, notification, shipment, sale, and other disposal of firearms as the Secretary may by regulation prescribe."

SEC. 904. Section 4 of the Federal Firearms Act is amended to read:

"SEC. 4. (a) The provisions of this Act shall not apply with respect—

"(1) to the transportation, shipment, receipt, or importation of any firearms sold or shipped to, or issued for the use of (A) the United States or any department, independent establishment, or agency thereof; (B) any State or any department, independent establishment, agency, or any political subdivision thereof; (C) any duly commissioned officer or agent of the United States, a State or any political subdivision thereof; (D) any bank, common or contract carrier, express company, or armored-truck company organized and operating in good faith for the transportation of money and valuables, which is granted an exemption by the Secretary; or (E) any research laboratory designated as such by the Secretary; or

"(2) to the transportation, shipment, or receipt of antique or unserviceable firearms possessed and held as a curio or museum piece.

"(b) Nothing contained in this Act shall be construed to prevent shipments of firearms to institutions, organizations, or persons to whom firearms may be lawfully delivered by the Secretary of Defense or his designee, nor to prevent the receipt or transportation of such firearms by their lawful possessors while they are engaged in military training or in competitions."

SEC. 905. Section 5 of the Federal Firearms Act is amended to read:

"SEC. 5. (a) Any person violating any of the provisions of this Act or any rules and regulations promulgated hereunder, or who makes any statement in applying for the license or exemption provided for in this Act, knowing or having reasonable cause to know such statement to be false, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned for not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.

"(b) Any firearm involved in any violation of the provisions of this Act or any rules or regulations promulgated thereunder shall be subject to seizure and forfeiture, and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5848(1) of said Code shall, so far as applicable, extend to seizures and forfeitures incurred under the provisions of this Act."

SEC. 906. The Federal Firearms Act is amended by adding at the end thereof the following new section:

"SEC. 11. Nothing in this Act shall be construed as modifying or affecting any provision of—

"(1) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1954); or

"(2) section 414 of the Mutual Security Act of 1954, as amended (section 1934 of title 22 of the United States Code (relating to munitions control)); or

"(3) section 1715 of title 18 of the United States Code (relating to nonmailable firearms)."

SEC. 907. The amendments made by this part shall become effective on the first day of the sixth month beginning after the date of enactment of this part.

SEC. 908. This part may be cited as the "Federal Firearms Amendments of 1968."

PART B—NATIONAL FIREARMS ACT AMENDMENTS

SEC. 911. (a) Paragraph (1) of section 5848 of the Internal Revenue Code of 1954 is amended by inserting after "or a machine gun," the words "or a destructive device,".

(b) Paragraph (2) of section 5848 of the Internal Revenue Code of 1954 is amended by inserting after the words "or is designed to shoot," the words "or which can readily be restored to shoot," and by striking out the period at the end thereof and inserting after the word "trigger" the words ", and shall include (A) the frame or receiver of any such weapon, and (B) any combination of parts designed and intended for use in converting a weapon, other than a machine gun, into a machine gun".

(c) Section 5848 of the Internal Revenue Code of 1954 is amended by renumbering paragraphs (3), (4), (5), (6), (7), (8), (9), (10), and (11), as paragraphs (4), (5), (6), (7), (8), (9), (10), (11), and (12), respectively, and by inserting after paragraph (2) a new paragraph (3) as follows:

"(3) The term 'destructive device' means (A) any explosive or incendiary (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile, (v) mine, or (vi) similar device; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive, the barrel or barrels of which have a bore of more than 0.78 inches in diameter; or (C) any combination of parts designed and intended for use in converting any device into a destructive device. The term 'destructive device' shall not include (i) any device which is not designed or redesigned or used or intended for use as a weapon, (ii) any device, although originally designed as a weapon, which is redesigned for use or is used as a signaling, pyrotechnic, line throwing, safety, or similar device, (iii) any shotgun or rifle, (iv) any firearm designed for use with black powder, regardless of when manufactured, (v) surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684 (2), 4685, or 4686 of title 10 of the United States Code, (vi) any device which the Secretary finds is used exclusively by the United States or any department or agency thereof, or (vii) any other device which the Secretary finds is not likely to be used as a weapon."

(d) Paragraph (4) of section 5848 of the Internal Revenue Code of 1954 (as renumbered) is amended by striking out the period at the end thereof and inserting the words ", and any such weapon which can readily be restored to firing condition."

(e) Paragraph (5) of section 5848 of the Internal Revenue Code of 1954 (as renumbered) is amended by striking out the period at the end thereof and inserting the words ", and any such weapon which can readily be restored to firing condition."

SEC. 912. Section 5803 of the Internal Revenue Code of 1954 is amended to read as follows:

"SEC. 5803. EXEMPTIONS.

"The tax imposed by section 5801 shall not apply to any importer, manufacturer, or dealer all of whose business as an importer, manufacturer, or dealer is conducted with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Secretary or his delegate may relieve any such importer, manufacturer, or dealer from compliance with any provision of this chapter with respect to the conducting of such business."

SEC. 913. (a) Section 5814 of the Internal Revenue Code of 1954 is amended by—

(1) striking out the word "duplicate" in the first sentence of subsection (a) and inserting in lieu thereof "triplicate";

(2) inserting before the period in the second sentence of subsection (a) thereof the following: "and the age of such applicant"; and

(3) striking out "a copy" in the first sentence of subsection (b), inserting in lieu thereof "one copy", and adding before the period in such sentence the following: "and one copy to the principal law enforcement officer of the locality wherein he resides".

(b) Subsection (e) of section 5821 of the Internal Revenue Code of 1954 is amended by—

(1) inserting before the period in the last sentence thereof the following: "and the age of such applicant"; and

(2) adding at the end thereof the following new sentence: "At the same time that the person making the declaration forwards the declaration to the Secretary or his delegate, he shall forward a copy thereof to the principal law enforcement officer of the locality wherein he resides."

(c) Section 5843 of the Internal Revenue Code of 1954 is amended by inserting at the end thereof the following sentence: "If a firearm (possessed by a person other than an importer or manufacturer) does not bear the identification required under this section, the possessor thereof shall identify the firearm with such number and other identification marks as may be designated by the Secretary or his delegate, in a manner approved by the Secretary or his delegate."

SEC. 914. (a) The second sentence of section 5841 of the Internal Revenue Code of 1954 is hereby repealed.

(b) Section 5841 of the Internal Revenue Code of 1954 is further amended by adding at the end thereof the following: "No person required to register under the provisions of this chapter shall be prosecuted or subjected to any penalty for or on account of any matter or information contained in any declaration or other statement required pursuant to the provisions of this chapter nor shall such information or matter be used as evidence in any criminal proceeding against him in any court: *Provided*, That no person shall be exempt under the provisions of this section from prosecution for any violation of the provisions of section 1001 of title 18 of the United States Code."

SEC. 915. (a) Subchapter B of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new section as follows:

"SEC. 5850. APPLICABILITY OF OTHER LAWS

"Nothing in this chapter shall be construed as modifying or affecting any provision of—

"(1) the Federal Firearms Act, as amended (15 U.S.C. 901–909); or

"(2) section 414 of the Mutual Security Act of 1954, as amended (section 1934 of title 22 of the United States Code (relating to munitions control)); or

"(3) section 1715 of title 18 of the United States Code (relating to nonmailable firearms).

(b) The table of sections in subchapter B of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof:

"Sec. 5850. Applicability of other laws."

SEC. 916. (a) Subchapter C of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new sections:

"SEC. 5856. UNLAWFUL RECEIPT IN VIOLATION OF STATE LAW.

"It shall be unlawful for any person to transport or receive in the State where he resides a firearm purchased or otherwise obtained by him outside the State where he resides if it would be unlawful for him to purchase or possess such firearm in the State (or political subdivision thereof) where he resides.

"SEC. 5857. UNLAWFUL SALE TO A PERSON UNDER 21 YEARS OF AGE

"It shall be unlawful for any importer, manufacturer, or dealer, subject to the spe-

cial tax imposed under section 5801 to sell any firearm to any person with knowledge or with reasonable cause to believe that such person is under 21 years of age."

(b) The table of sections in subchapter C of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof:

"Sec. 5856. Unlawful receipt in violation of State law.
"Sec. 5857. Unlawful sale to a person under 21 years of age."

SEC. 917. Section 5861 of the Internal Revenue Code is amended to read as follows:

"SEC. 5861. PENALTIES

"Any person who violates or fails to comply with any of the requirements of this chapter shall, upon conviction, be fined not more than $10,000, or imprisoned for not more than ten years, or both, and shall become eligible for parole as the Board of Parole shall determine.".

SEC. 918. (a) The proviso in paragraph (3) of subsection (a) of section 5801 of the Internal Revenue Code of 1954 is amended by striking out the words "under section 5848(5)" and inserting in lieu thereof the words "under section 5846(6)".

(b) The proviso in subsection (a) of section 5811 of the Internal Revenue Code of 1954 is amended by striking out the words "under section 5848(5)" and inserting in lieu thereof the words "under section 5848(6)".

(c) Subsection (d) of section 5685 of the Internal Revenue Code is amended to read as follows:

"(d) DEFINITION OF MACHINE GUN.—As used in this section the term 'machine gun' has the same meaning assigned to it in section 5848(2)."

SEC. 919. (a) This part shall take effect on the first day of the sixth month following the month in which it is enacted.

(b) Notwithstanding the provisions of subsection (a), any person required to register a firearm under the provisions of section 5841 of the Internal Revenue Code of 1954 by reason of the amendments to section 5848 of such Code contained in section 911 of this part, shall have ninety days from the effective date of this Act to register such firearm, and no liability (criminal or otherwise) shall be incurred in respect to failure to so register under such section prior to the expiration of such ninety days.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nebraska will state it.

Mr. HRUSKA. Is it the effect of these two requests that amendment No. 708, offered by me, is now the pending business before the Senate?

The PRESIDING OFFICER. The Senator from Nebraska is correct.

Mr. KENNEDY of Massachusetts. Mr. President will the Senator from Pennsylvania yield for the purpose of suggesting a quorum call, without losing his right to the floor?

Mr. SCOTT. I yield, under those conditions.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. KENNEDY of Massachusetts. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation on the pending substitute by the distinguished Senator from Nebraska [Mr. HRUSKA] of 3 hours, the time to be equally divided between the distinguished Senator from Nebraska [Mr. HRUSKA] and the manager of the bill, the distinguished senior Senator from Arkansas [Mr. MCCLELLAN], or whomever he may designate.

Mr. MCCLELLAN. Mr. President, I would like to designate the Senator from Connecticut [Mr. DODD], the author of the title, or the Senator from Maryland [Mr. TYDINGS], who is a cosponsor of the title.

Mr. MANSFIELD. They can work it out, themselves.

Mr. MCCLELLAN. I assure the majority leader he will have no difficulty in getting me to delegate authority.

Mr. MANSFIELD. And 3 hours on the amendment to be offered by the distinguished Senator from Massachusetts [Mr. KENNEDY], the time to be equally divided between the distinguished Senator from Massachusetts [Mr. KENNEDY] and the distinguished Senator from Arkansas [Mr. MCCLELLAN], or whomever he may designate.

The PRESIDING OFFICER. Is there objection?

Mr. JAVITS. Mr. President, reserving the right to object, I do not expect to object, but I would like to get the picture.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Do I correctly understand that the substitute offered by the Senator from Nebraska means it is now an amendment in the second degree and that it cannot be amended?

The PRESIDING OFFICER. The Senator from New York is correct.

Mr. JAVITS. Mr. President, another parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Will it then be possible, if the Hruska amendment is accepted, if adopted by the Senate, to offer any amendment to the gun title of the bill?

The PRESIDING OFFICER. If the Hruska amendment were agreed to, the question would then occur on the Dirksen amendment, as amended by the Hruska amendment.

Mr. JAVITS. But could that be amended?

The PRESIDING OFFICER. The Dirksen amendment could not be amended at that point, but it would be in order to amend the language of the bill proposed to be stricken out by the Dirksen amendment.

Mr. JAVITS. One other point. May we know, therefore, where the amendment of the Senator from Massachusetts [Mr. KENNEDY] fits, since that is a gun amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has not offered it.

Mr. JAVITS. I understood that the unanimous-consent agreement would apply to an amendment which has not been offered. Is that correct?

The PRESIDING OFFICER. The amendment has not been offered.

Mr. JAVITS. May we know the answer?

The PRESIDING OFFICER. The answer is it would be in order to ask unanimous consent.

Mr. JAVITS. Even though the amendment had not been presented?

The PRESIDING OFFICER. Even though the amendment had not been presented.

Mr. JAVITS. A further parliamentary inquiry. The amendment of the Senator from Massachusetts, as I understand it, would seek to include certain other gun legislation in the bill. I have a similar amendment. I would like to know what would be the parliamentary status of the amendment of the Senator from Massachusetts and my amendment when, as, and if the Hruska substitute for the Dirksen amendment were adopted and the Dirksen amendment were adopted. I do not want to find myself in the parliamentary tangle of being shut out because I stood mute when the unanimous-consent agreement was proposed.

The PRESIDING OFFICER. If the Hruska amendment were agreed to, the Senator from Massachusetts could offer his amendment, if it were a perfecting amendment to the text of the bill proposed to be stricken out by the Dirksen amendment. The amendment of the Senator from Massachusetts would be open to amendment to one degree.

Mr. JAVITS. Mr. President, a further parliamentary inquiry. Does a unanimous-consent agreement exclude the possibility of my offering an amendment either to amend that of the Senator from Massachusetts, or an independent amendment if his is defeated?

The PRESIDING OFFICER. Not unless the unanimous-consent agreement would include all amendments to its exclusion.

Mr. JAVITS. I ask the majority leader what is his intention.

Mr. MANSFIELD. Which it does not.

Mr. JAVITS. Which it does not.

Mr. President, I would suggest most respectfully to the majority leader that, in view of the fact that these parliamentary questions exist, the unanimous-consent agreement include provision both for the Kennedy amendment and my own. On my own, I will accept a 2-hour limitation. There is no great need for time, but I am concerned lest in the course of a parliamentary give and take I may find the door shut for my proposal.

Mr. SCOTT. Mr. President, reserving the right to object, I would like to ask that I be given a 1-hour limitation on my amendment in the event I offer an amendment to the gun provision.

Mr. MANSFIELD. Mr. President, I have made the request only as it applies to the substitute and the Kennedy amendment. If any Senator wishes to object to that request—and it looks like everything is rolling—I think it would be the best policy for me to withdraw the unanimous consent request. So if the

Chair would put the question, I would appreciate it.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana?

Mr. KENNEDY of Massachusetts. Mr. President, reserving the right to object——

Mr. JAVITS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania has the floor.

Mr. SCOTT. I yield myself 30 minutes.

Mr. President, this Nation has failed in its primary responsibility—the maintenance of law and order—the protection of every citizen, young and old. We are threatened, because of it, with anarchy. This we dare not tolerate.

Every citizen, every housewife, every worker, every infirm or elderly person in America is deeply concerned about the possibility of bodily harm and destruction of property. Statistics, reliable and frightening, can be invoked in proof of this. Opinions of law enforcement officers and agencies can be quoted in confirmation of it.

But no American needs any more statistics or opinions to know that fear grips our Nation.

We need action—firm, fair, comprehensive—and the Senate now has before it the Omnibus Crime Control and Safe Streets Act, designed to produce that action. This is the most comprehensive legislative proposal yet to be made in the field of law enforcement and criminal justice in America. It has my vigorous support.

Under this legislation new ways and means of dealing effectively with crime can be explored, methods already proven successful can be maintained and reinforced, ineffective programs will be discarded.

We must be concerned equally with the protection of both the public safety and with individual rights. I plan to urge that some provisions of this legislation be modified to provide stronger protection of such rights. With those modifications, this legislation will have my wholehearted support because it will then represent a fundamental commitment by our people to a truly nationwide war against crime.

Several sections of this proposed legislation deserve particular attention because of their outstanding importance.

I strongly favor that part of title II of this legislation which will permit voluntary statements made by an accused person to be admitted into evidence at a trial where the judge determines that such statements were truly voluntary under all the circumstances. Such a procedure would be in my judgment a marked improvement over the recent Supreme Court decision in the Miranda case which, while aimed at preventing abuses of the accused's constitutional rights—and rightly so—seemed to overlook the right of the public to be free of abusive activities committed by criminals. This section of title II contains the necessary safeguards to enable the judge and jury to search for the truth within the bounds of constitutional guarantees.

The provisions in title III, authorizing the use of electronic surveillance, such as wiretapping, by authorized law-enforcement officials, under strict court supervision, will prove invaluable in this Nation's fight against the increasing threat of organized crime syndicates. It is designed to meet the requirements of recent Supreme Court decisions, most notably, Berger against New York.

We all insist upon protection of the rights of individual privacy. But even the Bills of Rights does not establish the privacy of the individual in his person and effects as an absolute right. Protection was only guaranteed against unreasonable search and seizure. That is the basis of carefully limited search warrants and the authority for electronic surveillance which I favor, providing it is guarded by the most specific and rigorous supervision. The balancing of individual rights and privacy against the public good is a basic precept of civilized society. This balance demands that the public good prevail. This bill prohibits such surveillance by all private persons, and by public officials unless they demonstrate a compelling law-enforcement need. Therefore, title III protects the privacy of the ordinary, law-abiding citizen.

There are, however, two sections of the Omnibus Crime Control and Safe Streets Act which should be altered to make this an even more effective anticrime measure.

I do not support the system of direct Federal grants to individual units of local government set out in parts B and C of title I with the opinion of the "State crime agency" being given merely advisory status as to the benefits of the program in question. This system will encourage fragmentation and confusion among existing State law-enforcement agencies and services and would encourage the temptation to bypass the State governments. On the contrary, I favor bloc grants. That method would enable those States willing to meet their responsibilities to plan and to implement comprehensive blueprints for action. This will encourage the pooling of services, effective regionalization and increased coordination and innovation in law-enforcement activities.

This forward-looking, comprehensive approach—the so-called Cahill amendment—has been incorporated into the House-passed crime bill, H.R. 5037, and is now before the Senate as amendment No. 715. It deserves approval by the Senate.

I believe that section 520 in part E of title I which limits to 20 percent of the authorized funds the amount of money which can be spent on grants for purposes of correction, probation, and parole—the criminal justice system—is unfortunate. Our law enforcement and criminal justice systems must represent a unified assault on crime based on a meaningful distribution of resources to be effective. All necessary efforts must be made to reverse today's cycle of recidivism—the continual breaking of the law by persons convicted of serious crimes. Rather than setting any limit, I believe the decision on the allocation of resources in an anticrime program should be left as a matter of judgment to those persons directly dealing with the problem—those who best know local problems and local conditions.

I believe my record, as evidenced by my cosponsorship of the Prisoner Rehabilitation Act of 1965 and the Narcotics Addict Rehabilitation Act of 1966, is clear. When I argue for a balanced system of criminal justice and law enforcement, I do not argue for a "soft" or "hard" policy on criminals. I argue for a rational, firm but fair approach that will enable us to meet and to overcome the major crime problem facing this Nation.

I ask unanimous consent to have printed in the RECORD at the end of my remarks:

First. A letter from the Honorable William C. Sennett, attorney general of Pennsylvania, setting forth Pennsylvania's strong support of the bloc grant approach;

Second. My "Individual Views" in the committee report on S. 917 which deal with the four matters discussed above; and

Third. My article entitled "Wiretapping and Organized Crime" published in the winter 1968 edition of the Howard Law Journal.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1, 2, and 3.)

Mr. SCOTT. Mr. President, the Omnibus Crime Control and Safe Streets Act is a well-conceived and comprehensive attack on crime. But more needs to be done and some proposals are currently before the Congress awaiting action.

We need first, a reform of Federal criminal procedure; second, increased protection to small businesses; third, better methods to select Federal judges; fourth, improved court administration; and, fifth, more citizen participation preventing and fighting crime.

FEDERAL CRIMINAL PROCEDURE

Federal criminal procedure must be reformed so that our law-enforcement officials are not unduly hampered by regulations which have proven inadequate for today's problems.

Law-enforcement agencies need far more useful tools in obtaining information about specific criminal cases and in being able to bring such information before a jury.

For this reason, I have supported legislation which would reform several vital procedural provisions of the Federal Criminal Code. Those reforms would first, authorize a Federal arresting officer to make a reasonable search of the suspect as well as the immediate area under specified conditions; second, authorize Federal enforcement officials to seize property within an area for which a search warrant has been granted; third, authorize Federal enforcement officials to make forcible entry without "knocking" if authorized by the courts upon a finding that the property sought may be quickly destroyed; fourth, authorize the Government to appeal from a court order for the return of seized property or to suppress evidence; fifth, grant immunity to witnesses in Federal criminal proceedings in exchange for the compelling of testimony or the production of

evidence; and sixth, revise and modernize the present provisions relating to perjury and false statements.

I am pleased to see that legislation I cosponsored to make it a crime to obstruct an investigation is now public law. Prior to that, while it was a crime to obstruct a court proceeding, there was no law to prevent interference with an investigation. Thus, by successfully stifling the flow of information at the investigative level, either through violence or the threat of violence, "interested persons" with questionable motives could prevent the case from ever reaching the courtroom.

SMALL BUSINESS AND CRIME

We must move ahead and prevent the evaporation of small businesses in our big cities. If such a businessman can no longer operate because his location in a high-crime area makes insurance prohibitive or totally unattainable, the Government has a responsibility to act in his behalf for it is the failure of the Government at its several levels, to prevent crime that has pushed up his insurance rates.

Criminals habitually prey upon the small concerns, subjecting their proprietors and their employees to assaults, robberies, burglaries, loan sharking, and varied acts of vandalism.

I interpolate here in my remarks to commend the Senator from Florida [Mr. SMATHERS] and the members of his subcommittee who are conducting a hearing beginning today on this iniquitous practice of loan sharking which is one of the most vicious elements of organized crime in this country. The cost of such crime in anguish, injury, blood, and money can no longer be tolerated.

All America must face up to this problem realistically. If we fail to do so, we will inevitably lose far more than a vital part of our economy. If the small businessman goes out of business or relocates, it is the neighborhood which suffers the loss. This is an "urban problem" as important as any other we face.

For this reason, I am supporting legislation which would provide insurance protection to these small businessmen operating in high-risk, crime-ridden areas of our cities. Of course, insurance itself would serve only to ease the financial burdens and not to strike at the major problem, the incidence of crime. However, by actively pursuing other aspects of the total crime problem, by applying our technological and scientific know-how to the unique problems of the small businessmen, I am confident significant progress can be made.

JUDICIAL SELECTION

Our system of selecting judges at all levels must be improved so that the American people do not lose their respect for the law and the men who help shape it.

Today, we witness the impact that the Federal judiciary can have on the administration of our criminal laws—both State and Federal. The quality of the judiciary determines the quality of justice. It also determines whether equity results. I endorse the strengthening of present, ineffective screening procedures in the States for potential candidates for the judiciary. I would like also to see such a screening procedure in the Federal system. To this end I have introduced legislation proposing a Judicial Service Commission that would recommend to the President the most qualified men to sit on the Federal bench.

There should be no doubts in the minds of the people that judicial ability, not political affiliation, places men in a position to make important decisions affecting all our lives. Patronage considerations are a poor substitute for a totally unobligated judiciary corps. They undercut the basic American tradition of respect for the law. Loss of respect for the law can prove fatal to our society. Let there be no doubt of that.

COURT ADMINISTRATION

Courts at both the Federal and State level must take the necessary steps to deal with the overwhelming increase in judicial business.

To be effective, our system of criminal justice requires court administration which enables the accused to be brought to trial promptly. Thus, the innocent person is quickly cleared, while the guilty individual learns that transgressions against the public safety are dealt with swiftly.

The law creating the Federal Judicial Center, a measure of which I was cosponsor, has brought us closer to this goal. The Center is authorized to conduct research in all aspects of Federal judicial administration and to conduct programs to train personnel in the judicial branch. I have joined in proposing the National Court Assistance Act, S. 1033, which is similar legislation that is designed to assist State and local courts to improve their methods of operation and administration.

CITIZEN PARTICIPATION

This war against crime, everywhere and at every level, is ours—yours and mine. It demands the enlistment of every American, male and female, young and old. Whether we like it or not, we are involved—in our own defense, for our own protection. Our rights, our safety, our very lives are at stake.

Public support of law enforcement officers is required of us, at all times and in all places. Readiness to testify in court is imperative. The willing bearing of the taxes required for improved law enforcement is essential. The providing of reliable information to those in authority is all important. A closer relationship and understanding between the citizen and our holders of public office is vital.

In short, the doing of our full duty as alert and alarmed citizens is fundamental if this war against crime is to be won. This is what the military sometimes call "an all-hands evolution." It is as necessary now for the public safety as it is for our national defense.

LOCAL POLICE COMPENSATION

In one important area, appropriate steps have already been taken and legislation is on the books. Thus, I am very pleased that the local law enforcement officers' compensation bill, which I cosponsored, has been signed into law. It provides compensation to any local policeman who is disabled, or to his survivors if he is killed, while apprehending persons suspected of having committed a Federal crime.

This measure is one of simple justice and an appropriate recognition of the notable and noble contributions made by local police forces in this Nation's fight against crime. Local law enforcement officers often supplement the activities of Federal law enforcement personnel which lessen the need for a larger Federal force. In performing this duty, local officers are sometimes severely injured or killed. This is reason enough for the Federal Government to assume some responsibility toward the local agencies which very often are able to maintain only minimal compensation programs.

ACT NOW

I urge the Senate to act promptly on the Omnibus Crime Control and Safe Streets Act and on the other measures necessary to launch a full-scale attack against crime and the criminal elements in America.

We must legislate with an awareness of the need both for the public safety and the protection of individual rights.

But we must legislate also with concern for the data in the President's Commission on Law Enforcement and Administration of Justice which showed that:

Forty-three percent of the people interviewed stayed off the streets at night.

Thirty-five percent would not speak to strangers.

Twenty-one percent used only motor vehicles at night.

Thirty-three percent kept firearms in their homes.

Twenty-eight percent kept watchdogs.

We must be aware that this fear is permeating America—a fear that alternately paralyzes and panics our people.

We need to legislate with an awareness of that fear. We need to end the alarm felt by citizens nearly everywhere. We need to pass the Omnibus Crime Control and Safe Streets Act.

Mr. President, I yield back the remainder of my time.

EXHIBIT 1

COMMONWEALTH OF PENNSYLVANIA,
OFFICE OF ATTORNEY GENERAL,
Harrisburg, Pa., October 9, 1967.

Hon. HUGH SCOTT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SCOTT: I want to take this opportunity to present Pennsylvania's position with regard to the Law Enforcement and Criminal Justice Assistance Act of 1967, particularly H.R. 5037 containing the so-called Cahill Amendment. The dominant aspect of the Cahill Amendment is its provision for "block grants" to those states that plan a comprehensive effort to improve their systems of criminal justice.

Pennsylvania strongly urges the adoption of the "block grant" Cahill Amendment for the following reasons:

A. NEED FOR COORDINATION OF LAW ENFORCEMENT IN PENNSYLVANIA

The Pennsylvania Crime Commission was created in March of this year by the Executive Order of Governor Shafer to seek ways to prevent and control crime and to prepare a strategic plan for improving the entire structure of criminal justice in Pennsylvania. After four months of active opera-

tion, the Crime Commission has determined that one difficult aspect of our present system of criminal justice is the diffused fragmentation of the police. There are at present 20,000 state and local law enforcement officers in Pennsylvania who are employed by 720 police departments. The Crime Commission has ascertained that half of these law enforcement officers have never received any training of any kind. There is an immediate drastic need to coordinate as much as possible the standards and training of law enforcement officers throughout the state.

If Federal assistance is screened directly to cities and smaller segments of local government, there will be a tendency to emphasize this fragmentation and create innumerable problems. As an example—in Allegheny County alone there are approximately 129 police departments. Allegheny County is primarily a metropolitan area that needs highly coordinated law enforcement services. If each local political subdivision could apply individually for federal funds—without any overall coordination—all that would result would be mass confusion.

In the eastern part of Pennsylvania in the three heavily populated counties surrounding Philadelphia, there are so many law enforcement agencies that regional planning so far as recruitment, training, communications and compensation of law enforcement officers is desperately needed.

Pennsylvania has a State Planning Agency—the Pennsylvania Crime Commission—and we are earnestly attempting to coordinate and improve law enforcement throughout the state. To accomplish this we need to formulate and implement a statewide strategic plan.

B. EFFECTIVE STATE CONTROL

It is our firm belief in Pennsylvania that Federal assistance given at the state level will not in any way result in political bickering between the State and local governments. Pennsylvania does not seek to dominate local law enforcement in any area of our state but we would like to assist local authorities in upgrading and improving their law enforcement agencies on a broad based level.

C. PENNSYLVANIA IS READY

We do not anticipate the slightest delay in Pennsylvania in the fight against crime if the Cahill Amendment were enacted. Our Crime Commission is in its fourth month of active operations and its staff will be escalated by the Governor within the next month. Five highly qualified experts in various parts of the criminal justice spectrum will be assigned by the Governor to the Crime Commission to help fulfill its mission.

If the Cahill Amendment were enacted it would be an incentive that no state would ignore. In other words, every state would set up state planning agencies as quickly as possible since they could get the resources to launch an all-out effort to improve their systems of criminal justice.

Pennsylvania is also very much in favor of the Amendment requiring the "highest priority" for riot control and organized crime programs. These two problems are two of the most critical law enforcement problems in this state and we would welcome an opportunity to acquire additional resources to combat these great evils.

I hope that you will find these comments useful in the deliberations in the Sub-Committee. Please advise me if I may be of any further help to you with regard of these vital issues.

Sincerely,

WILLIAM C. SENNETT,
Attorney General.

EXHIBIT 2

INDIVIDUAL VIEWS OF MR. SCOTT

As a member of the original U.S. Crime Commission headed by Governor Franklin D. Roosevelt, as a former Assistant District Attorney, and presently as a member of the Senate Judiciary Subcommittee on Criminal Laws and Procedures, I have had the opportunity both to witness crime and its manifold effects and to hear and study the enlightened views of this Nation's specialists on this most urgent problem.

But while expertise and sophistication are necessary to mount a successful anti-crime attack, one need be no specialist to sense the growing and understandable concern of America. It should be clear to all that this country has failed in the first order of business—the maintenance of law and order. And this failure threatens to rend the very fabric of American life as we know it.

Recent surveys of high crime areas discussed in the President's Commission on Law Enforcement and Administration of Justice found that due to the fear of crime:

Forty-three percent of those interviewed stayed off the streets at night.

Thirty-five percent did not speak to strangers.

Twenty-one percent used only taxicabs and cars at night.

Over 33% kept firearms in their houses.

Twenty-eight percent kept watchdogs.

Surely we can take no pride when our citizens restrict and alter their daily way of living because law and order have broken down. Moreover, these are not idle fears. They represent a toll of the increased incidence of crime which must be considered along with the personal tragedy that accompanies every additional murder, rape, robbery, and other such senseless acts. Nor can we ignore the growing feeling that crime is the easy way out, with the rewards high and the chances for conviction low. The long-range prospects of such a philosophy, unless its errors are clearly demonstrated, are truly alarming.

How extensive is crime? Read the Uniform Crime Reports of the Federal Bureau of Investigation and learn that serious crime is increasing at a sharper rate now than at any time during almost the past 10 years. Read the well-documented Reports of the President's Crime Commission on Law Enforcement and Administration of Justice. Regretfully, in fact, you need not read further than your local newspaper.

The need is clear as is the urgency. We cannot wait until the bolted door and suspicious glance totally replace the warmth of America. Our resolve to act must be articulated and transformed into coordinated, planned and reasoned programs which strike out at every facet and level of the law enforcement and criminal justice systems. New approaches must be sought, proven methods continued and expanded and ineffective approaches discarded. Greater efforts to bring the benefits of modern technology to bear on the problem are necessary to provide the latest techniques and equipment to local law enforcement officials throughout the Nation. Law enforcement training and education must be encouraged along with advanced research into the causes and prevention of crime. In short, the best talent and most progressive thinking must be focused on—and a part of—the entire law enforcement and criminal justice systems. The public interest and safety must continually be measured against the rights of the individual—new balances being struck within Constitutional limits where old ones prove unworkable or unwise. America must commit herself to a truly national effort to combat the internal threat confronting us and to create a setting in which crime is neither a permanent fixture, a predominant fear, nor a promising alternative to those that feel that all other approaches are closed off or too difficult. Moreover, those who out of desperation move into a life of crime must be assured the opportunity for access to the benefits of society through normal and lawful channels.

We must address ourselves to the anarchy which has erupted the past several years in ghettos throughout the Nation. Such mass repudiations of law and order strike at the very core of a free and civilized society. We must plan and take the necessary steps now so that personnel adequately trained and equipped for riot prevention and control can deter underlying and sometimes understandable frustrations from erupting into blind mob violence once again. We must not, however, delude ourselves into believing that improved prevention and control is an adequate or just alternative to dealing with the underlying problems which beset many of our major cities.

The Omnibus Crime Control and Safe Streets Act of 1967 (S. 917), the major and most comprehensive legislative proposal in the field of law enforcement and criminal justice, substantially meets the needs I have discussed and has my strongest support. After extensive hearing before the Senate Judiciary Subcommittee on Criminal Laws and Procedures, an impressive hearing record and blueprint for action were developed. As a result, the Subcommittee and full Committee made several additions and changes in the bill as introduced and has reported legislation which truly represents an effective overall anticrime program.

Several sections of this legislation deserve individual attention because they concern areas that can be of extreme importance in improving our law enforcement and criminal justice systems. I will briefly refer to these sections and then discuss them in detail.

I strongly favor the section in Title II of this legislation which will permit voluntary statements made by the accused to be admitted into evidence at trial where the trial judge determines that such statements were truly voluntary under all the circumstances and facts in the specific case. Such a procedure is a marked improvement over the recent Supreme Court decision in the *Miranda* case which while aimed at preventing abuses of the accused's Constitutional rights—and rightly so—seemed to overlook the right of the public to be free of abusive activities committed by criminals. The provisions in Title III authorizing the use of electronic surveillance by specified law enforcement officials under strict Court supervision will prove invaluable in this Nation's fight against the increasing threat posed by organized criminal syndicates.

There are, however, two sections of the Omnibus Crime Control and Safe Streets Act which should be altered to make this an even more effective anti-crime measure. I do not support the system of direct Federal grants to individual units of local government with the opinion of the "State crime agency" being given merely advisory status as to the benefits of the program in question. On the contrary, I believe the bloc grant approach would enable the States to plan and to coordinate law enforcement activities more effectively. I also oppose setting any statutory limit on the resources which should be allocated for the purposes of our criminal justice system.

CONFESSIONS

Title II of this legislation makes the test of admissibility of a confession in a Federal Court the "totality of circumstances" and the voluntariness with which it was given. This would restore the test which had been in use and considered constitutional until recent Supreme Court decisions, most notably *Miranda* v. *Arizona*.

In *Miranda* the Court held that an otherwise voluntary confession made after a suspect was taken into custody could not be admitted into evidence unless the suspect was given four warnings prior to questioning:

(1) He has the right to remain silent.

(2) Any statement he makes may be used as evidence against him.

(3) He has the right to the presence of an attorney.

(4) If he cannot afford an attorney one will be appointed for him.

The Court further stated that only a voluntary knowing and intelligent waiver of these rights by the defendant will make the confession admissible.

I express my views not to find fault with Court decisions, but to observe that recent decisions of great important to the protection of the individual accused of crime have in themselves raised new questions of criminal law enforcement. In *Miranda* the Court sets up a new standard not supported by law, not supported by valid precedent, but very tortuously worked out in order to staple in what it is justly concerned about, the prevention of abuses.

As a citizen, it is my duty to respect the law of the land. As a Senator and legislator, it is my duty to uphold the Court whenever I conscientiously can; where I cannot, I seek to explore possible alternatives within the orderly framework of our governmental system. I think one thing that shakes public and Congressional confidence in the Court is the Court's seeming determination to make broad Constitutional findings which establish entirely new directions for the law on these narrow 5-to-4 decisions. As lawyers, many of us are seriously concerned that our higher Courts seem so rarely to be impressed by the need for some disciplines or some restraint on Courts as Courts until a true test case can be found, that Courts can do more than to make their decisions depend upon the narrow shading of a single man's opinion, knowing as the Court has to know, that the very next appointee to the Court may, in the very next test case, reverse the whole procedure under that particular constitutional decision. We need something better than the "last guess" doctrine.

If the Court will not exert self-discipline, then it is the role of the legislative branch to express its concern as to that very unfortunate aspect of the Court's attitude toward vast and fundamental changes in constitutional viewpoints. This responsibility is aptly stated by the late Chief Justice Harlan F. Stone:

"Where the courts deal, as ours do, with great public questions, the only protection against unwise decisions, and even judicial usurpation, is careful scrutiny of their action, and fearless comment upon it."

The Court itself in the *Miranda* decision urges Congress to examine this whole problem and encourages it to come up with a solution, which, I can only read into the Supreme Court's language, is a better proposed solution. The Court couples its encouragement to Congress with a judicial warning that the solution must be in consonance with the Constitution, the Bill of Rights, and presumably with the Court's disposition and composition at that time. But the latest decision, the *Miranda* case, is far from an ultimately satisfactory conclusion of a matter which affects not only the life and liberty of the accused, but also affects the life and security of all American citizens in this process.

The Senate Judiciary Subcommittee on Criminal Laws and Procedures has responded positively to this "urging" and has developed an impressive body of opinion from judges, lawyers, sociologists, academicians and private citizens. Title II represents a fair and effective solution more in keeping with the "genius of the people." As a general principle it should be noted that Congressional Committees and Subcommittees are better situated to explore human experience, to analyze the impact of judicial decisions, to conduct detailed hearings, and to make extensive findings on the total situation than is a Court considering a single factual situation and a specific legal issue. When fundamental changes in constitutional law on criminal procedure are contemplated, there can be no doubt that such extensive considerations as just outlined are most desirable.

Regrettably, the President's Crime Commission—another excellent forum—did not examine the question of recent confession and interrogation decisions. The additional views of seven members of the Commission appear at the end of the Report and declare that these decisions have tilted the balance of justice too far in favor of defendants. While these members state, and rightly so, that these decisions are the law of the land, they go on to make the point that a body such as the Commission should have studied this important area. I agree wholeheartedly.

As stated earlier, my purpose is not an attack on the Court, but rather a reasoned discussion of its action and its impact. In this, I do not speak alone—there were four dissenters in *Miranda*. The words of one of these, Justice John Harlan, bear repeating at this juncture:

There is, in my view, every reason to believe that a good many criminal defendants, who otherwise would have been convicted on what this Court has previously thought to be the most satisfactory kind of evidence, will now, under this new version of the Fifth Amendment, either not be tried at all or acquitted if the State's evidence, minus the confession, is put to the test of litigation. I have no desire whatsoever to share the responsibility for any such impact on the present criminal process. In some unknown number of cases the Court's rule will return a killer, a rapist or other criminal to the streets and to the environment which produced him, to repeat his crime whenever it pleases him. As a consequence, there will not be a gain, but a loss, in human dignity.

To those who say that a Court decision cannot "cause" crime, I would remind them of the excellent communications system of the underworld, the so-called "grapevine" of the prison "sea lawyers." One need not be a legal scholar to sense the tendency of the law, and where it is felt that a "technicality" will prevent prosecution, the result is bolder action. There has been a sharp decrease in confessions and concomitant decline in convictions and these developments cannot be ignored.

How should we approach this most vexing and important problem? For one, our criminal laws must seek to create and maintain and equitable balance between the rights of the individual and society. Laws must be drafted with as full purpose to protect the innocent as to preserve the rights of those charged with offenses. Of course, the innocent can either be a victim of the crime or a person wrongly accused of committing it.

An appropriate consideration in attempting to strike this balance are the words of Judge Learned Hand:

Our dangers do not lie in too little tenderness to the accused. Our procedure has always been haunted by the ghost of the innocent man convicted. It is an unreal dream. What we need to fear is the archaic formalism and the watery sentiment that obstructs, delays, and defeats the prosecution of crime.

As was so aptly stated by Justice Cardozo:

Justice, though due to the accused, is due the accuser also. The concept of fairness must not be strained until it is narrowed to a filament if we are to keep the balance true.

Title II keeps the balance true. The trial judge is required to take into account all the surrounding circumstances in determining whether the statement under consideration was voluntary. He is specifically required to examine certain enumerated factors which historically have been considered relevant in this area. If the judge finds the statement involuntary, he does not even allow it in evidence before the jury. Should he find the statement voluntary, he will permit the jury to consider it with the instruction that it should be given no more weight than the circumstances warrant. I believe these safeguards will enable the judge and the jury to search for the truth within the bounds of constitutional guarantees. This, in my way of thinking, is the purpose of our criminal law.

I hope that the President, in his search for a better system of law enforcement in this country, may provide a little encouragement to the legislative branch as he is perhaps called upon to fill vacancies on the High Court. By the action of the President in his selection of the candidates to make these judgments, the Court perhaps may someday be able to formulate some fundamental rules of law or, as some would think, changes in the law, by something more than the assumption of rather seismic risks when judgment depends upon the hairline decision of a single Justice.

WIRETAPPING

Title III of the bill would authorize carefully circumscribed and strictly controlled electronic surveillance (eavesdropping and wiretapping) by duly authorized law enforcement officials under a Court order procedure for the purpose of investigating specified crimes involving national security and serious offenses. This Title also prohibits the utilization of wiretapping and bugging by all private persons and by all public officials where there is no compelling law enforcement need as discussed above. In those circumstances, there can be no justification for the use of such techniques.

This legislation is vitally important if we are successfully to encounter the most insidious threat to the continued existence of American society as we know it—the threat of organized crime.

While I have a natural reluctance to authorize the overhearing of private conversations, even where there is the possibility that evidence concerning criminal activity may be uncovered, I must admit some doubt as to whether any wiretapping legislation should prevent the use of this weapon in society's struggle against organized crime—especially in view of the unique evidence-gathering problems in this area.

The impact of the Crime Commission Reports revealing testimony before the Senate Judiciary Subcommittee on Criminal Laws and Procedures, on which I serve, and discussions with many persons expert in the criminal justice system lead me to believe that if such organized criminal activity is permitted continued immunity from surveillance while it infests all of our lives, it may well destroy our society. As stated in the report of the *President's Commission on Law Enforcement and Administration of Justice* and in the *Task Force Report on Organized Crime:*

Organized crime is a society that seeks to operate outside the control of the American people and their governments. It involves thousands of criminals, working within structures as complex as those of any large corporation, subject to laws more rigidly enforced than those of legitimate governments. Its actions are not impulsive but rather the result of intricate conspiracies, carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits.

The core of organized crime activity is the supplying of illegal goods and services—gambling, loan sharking, narcotics, and other forms of vice—to countless numbers of citizen customers. But organized crime is also extensively and deeply involved in legitimate business and in labor unions. Here it employs illegitimate methods—monopolization, terrorism, extortion, tax evasion—to drive out or control lawful ownership and leadership and to exact illegal profits from the public. And to carry on its many activities secure from governmental interference, organized crime corrupts public officials.

It should be patently clear that organized crime does not operate in a vacuum. We can ill afford to stand aside and shake our col-

lective heads at the effects of such criminal activity, for in one way or another, every individual is affected when such activities are permitted to exist in our society. Indeed, some are affected more harshly than others, with the primary victims of organized crime being the disadvantaged persons in our urban areas. For the most part it is not the upper or middle class who are lured into the web of narcotics addiction, victimization by loan sharks, and the numbers racket, to name a few—it is the urban poor. And when illegal profits are extracted from the public, as described in the above-quoted passage, it stands to reason that the burden falls heaviest on those who can least shoulder it and have the least share in the advantages of our society.

I firmly believe that any so-called War on Crime that falls short of a total attack on the roots and infrastructure of organized crime is a limited war, being fought for an unrealistically limited objective, with no chance of success in its declared purpose. There is no sound basis for giving organized crime immunity from pursuit and prosecution. Moreover, no matter how well-intentioned and thoughtfully conceived and administered are our efforts to assist those caught up in a cycle of poverty, no program will be successful unless the effects of organized crime on these very persons are neutralized. It has been estimated that the revenue of nationwide crime syndicates reaches nine billion dollars a year. The chief brunt of this tribute is paid by the poor in the big cities and far outweighs the benefits of the anti-poverty programs.

However, the mere conviction and intent to mount an effective assault on organized crime will not suffice. The very nature of the criminal syndicate increases the difficulty of dismantling it. Due to the complex structures and intricate overlays of authority described above, law enforcement officials have a difficult time in ever really reaching the high command of organized crime. Underlings "on errands" for the boss often come within the ready grasp of alert law enforcement officials, but they are the "expendables." When they neither know exactly who their real boss is or are fearful of discussing such matters, law enforcement work is stymied. The reluctance and fear of victims and witnesses do not ease the task.

How then do you break into this core and get to the center of this cancer? How do you obtain the necessary evidence when an organization is dedicated to protecting its masters through a Code of Silence? What do you look for when almost all communication is by word of mouth, and there are no telltale records or memoranda of illicit enterprises? There can be no doubt as to the extent of the problem, the question is how successfully to combat it.

It is against this unique background that I turn to probably the most controversial means of obtaining evidence—the techniques referred to as bugging and wiretapping. There are those who say that these techniques are the only effective tools to fight such criminal activity. Others condemn these methods as a dangerous invasion of privacy. There are valid arguments on both sides. But there should be no doubt that the final decision on how to proceed in this area must be based on both the rights of individuals and the need to protect society, not an emotional harangue which too often accompanies these electronic surveillance debates. It should also be noted that the present United States law on wiretapping and bugging is totally unsatisfactory. Neither the right of privacy nor enforcement of the law is adequately served.

Anyone who has ever attempted an intelligent discussion of wiretapping and bugging will undoubtedly find himself confronted with a major problem at the outset: the sinister connotation and fear of Big Brother and 1984 which has become attached to the very terms themselves due to the amazing scientific developments in the field of electronic surveillance in the past fifty years. If we only devise a word to mean "scientific techniques to combat crime," I believe the issue would be placed in much clearer perspective and discussion could proceed unhampered by the distorted images which are conjured up by the very terms themselves.

One should realize that the need to balance the competing interests of privacy and law enforcement occurs at a number of points in our criminal justice system and the decision as to where to strike the balance must depend on the specific circumstances involved. But the concept of balance is not new and can in fact be traced by a reading of the United States Constitution. The framers of the Bill of Rights did not establish the privacy of the individual in his person and effects as an absolute right nor his home as an impenetrable sanctuary. Safety was only guaranteed against unreasonable—not every—search and seizure and institutions of law enforcement were afforded the privilege of such search and seizure under carefully circumscribed criteria. This is the recognition of a basic precept of civilized society: there is a *point* at which individual privacy and rights yield to the public safety. The difficulty of striking this balance should not deter us from our responsibility as legislators.

There is overwhelming evidence that we have reached the "crisis point." Modern surveillance techniques are urgently needed if law enforcement institutions are successfully to perform their sworn duty of protecting the public. New York County District Attorney Frank Hogan—whose office has made the most sophisticated use of the techniques under consideration—believes that telephonic interception pursuant to Court order and under proper safeguards is the single most valuable and effective weapon in the arsenal of law enforcement particularly in the battle against organized crime." A distinguished array of witnesses before the Senate Judiciary Subcommittee on Criminal Laws and Procedure also urged the need and propriety of such techniques. All members of the President's highly respected Commission on Law Enforcement and Administration of Justice agree both on the difficulty of striking the balance between the benefits to law enforcement versus the threat to privacy, and the belief that if authority to employ electronic surveillance techniques is granted it must be done with stringent limitations. But a majority of the members favored enacting legislation "granting carefully circumscribed authority for electronic surveillance to law enforcement officers to the extent it may be consistent with the decision of the Supreme Court in *People* v. *Berger*. . . ."

A telling point is made by District Attorney Hogan when he points out that no responsible critic of wiretapping—not even the Attorney General of the United States—urges that it should be abandoned in national security situations. District Attorney Hogan views this as a concession that wiretapping and electronic surveillance are vital weapons of detection against elaborate criminal conspiracies.

In response to those who believe such surveillance activity would lead to excessive invasions of privacy and a Big Brother Society, I would point out the practical considerations which rule out the arbitrary use of wiretapping and electronic surveillance devices and which therefore reduce possible invasions of privacy to a minimum: difficulty of installation, "maintenance" of the equipment once installed, properly monitoring conversations and adequately covering "rendezvous," overheard through surveillance. Thus, in view of the effort, time, and manpower required for the proper use of such modern surveillance techniques, these methods—far from being a substitute for good police legwork—are frequently a preliminary to a great deal of it.

Moreover, Title III contains an elaborate system of checks and safeguards whereby criminal and civil remedies would be available to prevent abuses and unauthorized surveillance by public officials and private persons.

Congressional concern and activity in the organized crime-surveillance area are somewhat recent. Following World War II, the Congress attempted to pass a wiretap bill on several occasions. However, the primary concern in the 1950s was subversive activities, and it was not until the 1960s that such legislation was envisioned as a means to combat crime. In 1961, the Kennedy Administration endorsed proposals for a wiretapping law authorizing federal agencies to tap in cases of national security, organized crime, and other serious crimes, placing no limits on State wiretapping.

In 1962, the Kennedy Administration sent a somewhat more restricted bill to the Congress. It authorized federal wiretapping in cases of national security, organized crime, and other serious crime, i.e., narcotics violations, murder, kidnaping, extortion, bribery, interstate transportation in aid of racketeering, interstate communication of gambling information, and a conspiracy to commit any of the foregoing. It limited State wiretapping to certain serious crimes and outlawed all other wiretapping. Congress took no action on the proposal. The Kennedy Administration recommended passage of similar legislation in 1963, but again Congress took no action.

In 1965, 1966 and 1967, several bills on wiretapping and eavesdropping were introduced in both the House and the Senate, but the Administration of President Johnson has not endorsed any that would extend electronic surveillance to organized criminal activities. In fact, by Executive Order promulgated in July 1965, President Johnson ordered all federal agencies except the Justice Department to cease wiretapping. The Presidential order permitted the Justice Department to continue to tap wires only in cases of national security, but prior approval of the Attorney General was necessary.

In the recent *Berger* v. *New York* decision, the Supreme Court reversed a State conviction for conspiracy to bribe based on a Court-approved eavesdrop.

The Court found the statute failed to meet the constitutional standard because it did not require sufficient particularity in the orders concerning the place to be searched, the person's conversations to be overheard, and the expected nature of the conversations and the times at which they will be heard. Significantly, the Court indicated that a statute meeting these standards would meet constitutional requirements. Therefore, I read this case as an invitation to the Congress to work its legislative will on the difficult problem of drafting a just, effective and comprehensive wiretapping and electronic surveillance statute.

The legislation under consideration has responsibly answered that invitation and deserves our support. This Title was drafted with the *Berger* decision specifically in mind and every effort was made to conform to the criteria set forth by the Court and to develop a proposal which would fully comply. This Title is also in accord with the Court's more recent decision in *Katz* v. *U.S.* which dealt with the issue of electronic eavesdropping. I believe this Title can provide our law enforcement authorities a useful tool in their investigations of organized crime while not unduly disturbing the privacy of the ordinary, law-abiding citizen.

In short, the advantages to society of this legislation outweigh its disadvantages. If

flaws appear in its administration, they can—and must—be corrected.

BLOC GRANTS

Parts B and C of Title I provide for direct Federal planning and law enforcement grants to individual units of local government, largely bypassing the Governors of the States. The creation of this nationwide competition for funding will lead the way to Federal control and restrictions while encouraging fragmentation and confusion among existing State law enforcement agencies and services. Moreover, units of local government hurriedly attempting to submit their applications for funds will have little time for the thoughtful analysis necessary to formulate innovative programs of law enforcement and criminal justice.

The President's Commission on Law Enforcement and Administration of Justice pointed out that one of the major problems of effective law enforcement is in the fragmentation of police efforts. As an example, in my own State of Pennsylvania, one county—a metropolitan area needing highly-coordinated law enforcement services—has approximately 129 police departments. Imagine the results if each local political subdivision could apply individually for Federal assistance without any overall coordination. I am sure similar instances can be found across the Nation.

I therefore urge that we stimulate intrastate activity and interstate cooperation by adopting the bloc grant approach (so-called Cahill Amendment) incorporated into the House-passed crime bill, the Law Enforcement and Criminal Justice Assistance Act of 1967 (H.R. 5037), and proposed during Committee consideration by Senator Roman Hruska. Under this approach, Federal financial assistance to State and local law enforcement would be channeled through "State planning agencies" created or designated by the Governors of the several States. These funds would be allocated by the State agencies to State and local law enforcement activities pursuant to current comprehensive plans which must be approved annually by the Federal Law Enforcement Administration. Each State agency would determine its own priorities for expenditures consistent with its comprehensive plan.

To participate in the bloc grant system, a State must indicate its commitment to a statewide program of law enforcement and criminal justice as well as its willingness to contribute to such a program. Moreover, where a State is unable or refuses to meet the necessary conditions, the bloc grant approach provides for a bypass of the State by direct Federal grants to units of local government. By thus giving those States that are willing to meet their responsibilities the opportunity to formulate and implement comprehensive plans of action, this method of providing crime-fighting funds would encourage the pooling of services, effective regionalization and increased coordination in law enforcement activities. Moreover, it would enable the States, who are more familiar than the Federal Government with local needs and are directly responsible to their constituents, to apply funds to the specific projects most urgently needed in their areas rather than permitting the National Government to set priorities. My views on this matter are in line with the able recommendations of Attorney General William C. Sennett of the Commonwealth of Pennsylvania.

CRIMINAL JUSTICE SYSTEM

Section 520 in Part E of Title I limits to 20% of the authorized funds the amount of money which can be spent on grants for purposes of "correction, probation, and parole"—what I call the criminal justice system. This limitation is unfortunate because our law enforcement and criminal justice systems must represent a unified assault on crime based on a meaningful distribution of resources to be effective.

Today, there is imbalance between criminal justice and law enforcement. To increase the effectiveness of law enforcement while limiting the funds for criminal justice will reinforce this imbalance and prevent the very type of planning and action that this legislation envisions. By establishing this standard of imbalance by statute, we may run the risk of forcing a judge to select a sentence—be it prison, probation or rehabilitation—on the basis of what is available as opposed to what is best suited for society and the criminal in each particular case.

It should be remembered that the President's Commission on Law Enforcement and Administration of Justice found that "the most striking fact" about persons convicted of serious crimes is that they continue to break the law. It is imperative that when these people are within the criminal justice system, we devote all necessary resources and do all under our control to break this cycle of recidivism. Rather than setting any limit, I believe the decision on the allocation of resources in an anti-crime program should be left as a matter of judgment to those persons directly dealing with the problem.

I believe my record is clear. When I argue for a balanced system of criminal justice and law enforcement, I do not argue for a "soft" or "hard" policy on criminals. I argue for a rational approach that will enable us to meet and overcome the major crime problem facing this Nation.

HUGH SCOTT.

EXHIBIT 3

[From the Howard Law Journal, winter 1968]

WIRETAPPING AND ORGANIZED CRIME

(By Senator HUGH SCOTT*)

One need make no lengthy study to realize that a major problem facing the Nation is the internal threat created by the increasing incidence of crime. As a result, our citizens cannot lead their lives free of the fear and disquieting atmosphere resulting from the existence and reports of crime.

On March 9th of this year, I spoke at length on this subject in an address on the floor of the Senate entitled "Crime in America." At that time I stated:

"The failure of our society today is its inability to maintain law and order. For what is the purpose of society if not to provide a setting in which citizens may lead productive lives, free of the fear that others are able to abridge their rights, injure, or kill them at will? A nation guided by law must be a nation protected by law.

"It is especially significant that in recent years, while the standard of living in the United States has increased—in economic growth, average income, educational levels, technological know-how—the rate of crime has not decreased. Today it is worse than ever.

"This is a shocking commentary on a 'justice gap.' A nation within reach of the moon cannot guarantee its citizens their safety of the streets." [1]

In this article, I will direct my remarks to the one aspect of this problem which represents the most insidious threat to the continued existence of American Society as we now know it—the threat of organized crime. These are not the spontaneous crimes of passion, or the thrill escapades of misled youth—but rather the planned activities of professional criminals who plot their exploits with the utmost care and precision. As stated in the report of the President's Commission on Law Enforcement and Administration of Justice:

"Organized crime is a society that seeks to operate outside the control of the American people and their governments. It involves thousands of criminals, working within structures as complex as those of any large corporation, subject to laws more rigidly enforced than those of legitimate governments. Its actions are not impulsive but rather the result of intricate conspiracies, carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits.

"The core of organized criminal activity is the supplying of illegal goods and services—gambling, loan sharking, narcotics, and other forms of vice—to countless numbers of citizen customers. But organized crime is also extensively and deeply involved in legitimate business and in labor unions. Here it employs illegitimate methods—monopolization, terrorism, extortion, tax evasion—to drive out or control lawful ownership and leadership and to exact illegal profits from the public. And to carry on its many activities secure from governmental interference, organized crime corrupts public officials." [2]

It should be patently clear that organized crime does not operate in a vacuum. We can ill afford to stand aside and shake our collective heads at the effects of such criminal activity, for in one way or another, every individual is affected when such activities are permitted to exist in our society.[3] Indeed, some are affected more harshly than others, with the primary victims of organized crime being the disadvantaged persons in our urban areas. For the most part, it is not the upper or middle class who are lured into the web of narcotics addiction, victimized by loan sharks, and the numbers racket, to name a few—it is the urban poor. Moreover, when illegal profits are extracted from the public, as described in the above-quoted passage, it stands to reason that the burden falls heaviest on those who can least shoulder it and have the least share in the advantages of our society.

I firmly believe that any so-called War on Crime that falls short of a total attack on the roots and infrastructure of organized crime is a limited war, being fought for an unrealistically limited objective, with no chance of success in its declared purpose. There is no sound basis for giving organized crime immunity from pursuit and prosecution. Moreover, no matter how well-intentioned and thoughtfully conceived and administered are our efforts to assist those caught-up in a cycle of poverty, no program will be successful unless the effects of organized crime on these very persons is neutralized. It is estimated that the revenue of nationwide crime syndicates reaches nine billion dollars a year.[4] Unfortunately, the heaviest burden of paying this tribute is on the poor in the big cities and far outweighs the benefits of the antipoverty programs.

However, the mere conviction and intent to mount an effective assault on organized crime will not suffice. The very nature of the criminal syndicate increases the difficulty of dismantling it. Due to the complex struc-

---

* United States Senator, 1958—; Visiting Fellow, Balliol College, Oxford, England, for the Michaelmas Term, 1967; U.S. Congressman, 1942–1958; Assistance District Attorney (Philadelphia), 1926–1941; LL.B., University of Virginia, 1922.

[1] CONGRESSIONAL RECORD, vol. 113, pt. 5, pp. 5973–5976.

[2] President's Commission on Law Enforcement and Administration of Justice Report, The Challenge of Crime in a Free Society (1967).

[3] For a most interesting discussion of criminal syndicates, see Cressey. The Functions and Structure of Criminal Syndicates, Task Force on Organized Crime Report, Appendix A, at 25 (1967).

[4] Figures may be found in CONGRESSIONAL RECORD, vol. 113, pt. 16, p. 21759; quoted in Childs, Justice or Privacy or a Bit of Both.

tures and intricate overlays of authority described above, law enforcement officials have a difficult time in reaching the high command of organized crime. Underlings "on errands" for the boss often come within the grasp of alert law enforcement officials, but they are the "expendables." They either do not know who their real boss is or are fearful of discussing such matters. Under these circumstances, law enforcement is stymied. The reluctance and fear of victims and witnesses do not ease the task.[5]

How then do you break into this core and get to the center of this cancer? How do you obtain the necessary evidence when an organization is dedicated to protecting its masters through a code of silence? What do you look for when almost all communication is by word of mouth, and there are no telltale records or memoranda of illicit enterprises? There can be no doubt as to the extent of the problem, the question is how to successfully combat it.

It is against this unique background that I turn to probably the most controversial means of obtaining evidence—the techniques referred to as "bugging" and "wiretapping."[6] There are those who say that these techniques are the only effective tools to fight such criminal activity. Others condemn these methods as a dangerous invasion of privacy. There are valid arguments on both sides. But there should be no doubt that the final decision on how to proceed in this area must be based on both the rights of individuals and the need to protect society, not on an emotional harangue which too often accompanies these electronic surveillance debates. It should also be noted that the present United States law on wiretapping and bugging is totally unsatisfactory. Neither the right of privacy nor enforcement of the law is adequately served.

Anyone who has ever attempted an intelligent discussion of wiretapping and bugging will undoubtedly find himself confronted with a major problem at the outset: the sinister connotations and fear of "Big Brother" and "1974" which has become attached to the very terms themselves due to amazing scientific developments in the field of electronic surveillance. If we could only devise a word to mean "scientific techniques to combat crime," I believe the issue would be placed in much clearer perspective, and discussion could proceed unhampered by the distorted images which are conjured up by the very terms themselves. On this point, an historical parallel comes to mind. In eighteenth century England, when crime pervaded the city of London and the surrounding highways in staggering amounts, attempts to establish a constabulary met fierce opposition. The reason? Englishmen feared the very name "police" as it was a French word connoting foreign tyranny.

In our system of criminal justice, the need to balance the competing interests of privacy and law enforcement occurs at a number of points. The decision as to whether to strike the balance must depend on the specific circumstances involved. Indeed, the concept of balance is not new and, by a reading of the United States Constitution, can be traced. The framers of the Bill of Rights did not establish the privacy of the individual in his person and effects as an absolute right, nor did they establish his home as an impenetrable sanctuary. Protection was only guaranteed against unreasonable—not every—search and seizure. Thus, institutions of law enforcement were afforded the privilege of search and seizure under carefully circumscribed criteria. This is the recognition of a basic precept of civilized society: there is a point at which individual privacy and rights yield to the public good.

The problem, as Pound has described it, is "one of compromise; of balancing conflicting interests and of securing as much as may be with the least sacrifice of other interests."[7] While the striking of this balance is difficult, the study of law and the responsibility of legislating hopefully enable us to arrive at a point of equilibrium. It is clear that before striking any meaningful balance, one must study the competing values and interests so that the problem may be viewed in the proper perspective, since, as Burke points out:

"For that which taken singly and viewed by itself may appear to be wrong when considered with relation to other things may be perfectly right—or at least such as ought to be patiently endured as the means of preventing something that is worse."[8]

It should be clear at the start: what is sought is not the forsaking of "the requirements of the fourth amendment in the name of law enforcement"[9]—but rather a consideration of what is necessary in the name of the survival of the freedoms and liberties constituting our concept of an orderly and safe society.

In a subsequent part of this article, I will discuss the manner in which appropriate legislation can meet the Constitutional guidelines set out in the *Berger case*[9a] in order to ensure that basic guarantees are not disregarded. The following discussion centers on the other half of the equation—the need for modern surveillance techniques if law enforcement institutions are to be able to successfully perform their sworn duty of protecting society.

New York County District Attorney Frank Hogan, whose office has made the most sophisticated use of the techniques under consideration, has stated:

"I believe, as repeatedly I have stated, that telephonic interception, pursuant to court order and under proper safeguards, is the single most valuable and effective weapon in the arsenal of law enforcement, particularly in the battle against organized crime.

It is an irreplaceable tool and, lacking it, we would find it infinitely more difficult, and in many instances impossible, to penetrate the wall behind which major criminal enterprises flourish."[10]

All members of the President's highly respected Commission on Law Enforcement and Administration of Justice agreed both on the difficulty of striking the balance between the benefits to law enforcement and the threat to privacy. They shared the view that the authority to employ electronic surveillance techniques, if granted, must be exercised with stringent limitations. But a majority of the members favored enacting legislation "granting carefully circumscribed authority for electronic surveillance to law enforcement officers to the extent it may be consistent with the decision of the Supreme Court in *Berger* v. *New York*."[11]

The Commission referred to a conclusion by the English Privy Councillors who studied Great Britains' twenty year experience in this area:

"The freedom of the individual is quite valueless if he can be made the victim of the law breaker. Every civilized society must have power to protect itself from wrongdoers. It must have power to arrest, search and imprison those who break the laws. If these powers are properly and wisely exercised, it may be thought that they are in themselves aids to the maintenance of the true freedom of the individual.

"We cannot think it to be wise or prudent or necessary to take away from the Police any weapon or to weaken any power they now possess in their fight against organized crime of this character.* * * If it be said that the number of cases where methods of interception are used is small and that an objectionable method could therefore well be abolished, we feel that . . . this is not a reason why criminals in this particular class of crime should be encouraged by the knowledge that they have nothing to fear from methods of interception. * * * This, in our opinion, so far from strengthening the liberty of the ordinary citizen, might very well have the opposite effect."[12]

Recently, District Attorney Hogan pointed out that no responsible critic of wiretapping—not even the Attorney General of the United States—has urged that it be abandoned in national security situations. District Attorney Hogan views this as a concession that wiretapping and electronic surveillance are vital weapons in the detection of elaborately organized criminal conspiracies.[13] Mr. Justice White, dissenting in *Berger*,[14] has phrased the same vital question:

"If the security of the National Government is of sufficient interest to render eavesdropping reasonable, on what tenable basis can a contrary conclusion be reached when a State asserts a purpose to prevent the corruption of its major officials, to protect the integrity of its fundamental processes, and to maintain itself as a viable institution?"[14a]

In response to those who see Big Brother running rampant, one should point out the

---

[5] Two bills which I have joined in proposing should serve to better this situation. While it is presently a crime to obstruct a court proceeding, it is not a crime to obstruct an investigation. Thus, by successfully stifling the flow of information at the investigative level either through violence or the threat of violence, shadowy interested persons prevent the case from ever reaching the courtroom. S. 676, 90th Cong., 1st Sess. (1967) would make such obstruction a federal offense.

A witness immunity statute is also needed. Through the proper legislative framework and with the proper safeguards, this would enable the U.S. Attorney General to grant immunity from prosecution to a witness where that witness could provide testimony essential to the conviction of the accused. Used with the proper attitude and in the appropriate circumstances, S. 677, 90th Cong., 1st Sess. (1967) would provide a useful tool in the war on crime.

[6] This article deals exclusively with the need for wiretapping and electronic-surveillance to combat organized crime. Though I do not discuss the questions of such surveillance by private and public individuals and related to such law enforcement purposes, I wish to make it perfectly clear that I believe there is no justification whatsoever for such activities and feel the Congress must act to flatly prohibit them. Such prohibitions are contained in S. 2050, 90th Cong., 1st Sess. (1967), discussed later in this article.

[7] Pound, Criminal Justice in the American City 18 (1922).

[8] Stanlis, Edmund Burke: Selected Writings and Speeches 318 (1963).

[9] Berger v. New York, 388 U.S. 41, 62 (1967). This decision will be discussed in detail later in this article.

[9a] Ibid.

[10] Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary, 90th Cong., 1st Sess. 1093 (1967) (hereafter cited as Senate Hearings). See District Attorney Hogan's statement before this Subcommittee, at 1104–11, for specific instances of the successful use of wiretapping and electronic surveillance in criminal cases. Mr. Hogan was primarily testifying on a proposed wiretapping statute, but later in his remarks he referred to the "powerful effectiveness" of electronic surveillance investigative activity. Senate Hearings, supra at 1109.

[11] Organized Crime Task Force Report, supra note 2a at 19.

[12] Before Subcomm. No. 5 of the House Comm. on the Judiciary, 90th Cong., 1st Sess., ser. 3, 1110, 1112–13 (1967). Hereafter cited as House Hearings.

[13] Senate Hearings, supra note 10 at 1111.

[14] Berger v. New York, supra, note 9.

[14a] Id. at 116.

practical considerations which rule out the arbitrary use of the wiretapping and electronic surveillance devices and which therefore reduce possible invasions of privacy to a minimum: difficulty of installation, "maintenance" of the equipment once installed, properly monitoring conversations and adequately covering "rendezvous" overheard through surveillance.[15] Thus, in view of the effort, time, and manpower required for the proper use of such modern surveillance techniques, these methods—far from being a substitute for good police legwork—are frequently a preliminary to a great deal of it.

Congressional concern and activity in the organized crime-surveillance area is somewhat recent, but a quick glance indicates that those who stress the role of partisan politics on this issue do not know their "legislative history." Following World War II, the Congress attempted to pass a wiretap bill on several occasions. However, the primary concern in the 1950's was subversive activities, and it was not until the 1960's that such legislation was envisioned as a means to combat crime. In 1961, the Kennedy Administration endorsed proposals for a wiretapping law authorizing federal agencies to tap in cases of national security, organized crime, and other serious crimes, placing no limits on State wiretapping.

In 1962, the Kennedy Administration sent a somewhat more restricted bill to Congress. It authorized federal wiretapping in cases of national security, organized crime, and other serious crime, i.e., narcotics violations, murder, kidnapping, extortion, bribery, interstate transportation in aid of racketeering, interstate communications of gambling information, and a conspiracy to commit any of the foregoing. It limited State wiretapping to certain serious crimes and outlawed all other wiretapping. Congress took no action on the proposal. The Kennedy Administration recommended passage of similar legislation in 1963, but again Congress took no action.

In 1965, 1966, and 1967, several bills[16] on wiretapping and eavesdropping were introduced in both the House and the Senate, but the administration of President Johnson has not endorsed any that would extend wiretapping and/or electronic surveillance to organized criminal activities. In fact, by Executive Order[17] promulgated in July 1965. President Johnson ordered all federal agencies except the Justice Department to cease wiretapping. The Presidential order permitted the Justice Department to continue to tap wires only in cases of national security, but prior approval of the Attorney General was necessary.

Before discussing in detail the pending legislation in this area, I believe a brief analysis of the existing statutory law on wiretapping and eavesdropping and a summary of major court decisions on the use of these techniques is in order.

The basic statutory law on wiretapping is found in the Federal Communications Act of 1934[18] which created the Federal Communications Commission and vested it with jurisdiction over radio, telegraph, and telephone communications. Section 605, dealing with interception of messages, reads in part: "no person not being authorized by the sender shall intercept any communication and divulge or publish the . . . contents . . . of such intercepted communication to any person." In construing Section 605, the Supreme Court has read the statutory prohibitions to apply to both interstate and intrastate telephone wires;[19] and has held that "no person" includes state and federal law enforcement officials;[20] and the barring of "divulgence" renders wiretap evidence inadmissible in federal courts.[21] The court has also excluded the fruits of wiretap enforcement official who introduces wiretap evidence is state proceedings technically commits a federal crime, the Court has held that suppression of the evidence is not required by the statute.[23]

A 1941 statement[24] by Attorney General Jackson to the House Judiciary Committee advanced an interpretation of Section 605 on which federal agencies have since relied. By construing the phrase "intercept . . . and divulge" as an inseparable unit, Jackson's interpretation rendered wiretapping itself permissible. He also stated that the Federal Bureau of Investigation was a "person" under Section 605 in order to conclude that the interdepartmental sharing of information among FBI personnel would not constitute a "divulgence" in the sense prohibited by the statute.

Testifying on this issue, former Attorney General Nicholas deB. Katzenbach stated.

"I agree with my predecessor that the present law regarding wiretapping is intolerable. In fact, I would go so far as to state that it would be difficult to devise a law more totally unsatisfactory in its consequences than that which has evolved from Section 605.

"First, it adequately protects the privacy of no one. To prosecute successfully, the Government now must prove both interception and disclosure. Under these circumstances there is a good deal of illicit wiretapping. . . .

"Second, under present law, use of wiretapping for potentially justifiable prosecutive purposes is impossible. A number of State laws authorize wiretapping by police officials under certain circumstances and procedures. But the Federal law has been interpreted by the courts to prevent the use of this information in a criminal prosecution.

"I think there is general agreement that the President should be permitted to authorize wiretapping for national security purposes so long as this procedure is strictly controlled; wiretapping should not be permitted by private individuals and the law should be strengthened to insure that such abuses do not take place; if wiretapping is to be permitted at all, it should be done by law-enforcement officials, under strict controls."[25]

The present law gives us the worst of all possible solutions. . . .

Congress has never enacted legislation explicitly dealing with electronic eavesdropping. The Federal Communications Commission has recently banned the use of radio transmitting microphones for eavesdropping purposes without the consent of both parties to the conversation, but this ban does not apply to "operations of any law enforcement officers conducted under lawful authority."[26] The Attorney General has recently issued a Memorandum to Heads of Executive Departments and Agencies prohibiting the "use of mechanical or electronic devices by federal personnel to overhear or record non-telephone conversations involving a violation of the Constitution or a statute."[27]

Let us now take a closer look at judicial activity in this area. In 1928 (therefore, pre Section 605) the Supreme Court ruled in *Olmstead* v. *United States*,[28] that evidence obtained by wiretapping defendant's telephone at a point outside defendant's premises was admissible in a federal criminal prosecution. The Court found no unconstitutional search and seizure under the fourth amendment because words as intangibles cannot be "seized" and because the tapping of wires at a place removed from the defendant's house is not a "search" (physical intrusion or trespass of a constitutionally protected area) within the Amendment.

In *Goldman* v. *United States*[29] the Court extended the theory of *Olmstead* to bugging in a case involving a detectaphone, i.e., a telephonic apparatus with an attached microphone transmitter. This decision was followed by *Silverman* v. *United States*[30] where the Court held that the use of bugging equipment that involved an unauthorized physical entry into a constitutionally protected private area without the consent of one of the parties violated the fourth amendment and rendered evidence so obtained inadmissible. This case concerned a spiked microphone that had penetrated the party wall to a heating duct in defendant's house. In *Wong Sun* v. *United States*[31] the Court specifically stated that under the fourth amendment verbal evidence, as well as the more common tangible evidence, may be the fruit of official illegality: "It follows from our holding in *Silverman* v. *United States*, 365 U.S. 505, that the fourth amendment protects against the overhearing of verbal statements as well as against the more traditional seizure of 'papers and effects'." If one of the parties consents, no constitutional issues are presented, no matter where the interception takes place.[32]

The fifth amendment as such places no ban on the use of electronic surveillance devices.[33] The fourteenth amendment applies to state action the same limitations imposed upon federal action found in the fourth amendment.[34]

Thus, upon a reading of the preceding cases, the law could be stated as: wiretapping or eavesdropping in the absence of physical intrusion of a constitutionally-protected area does not violate the Constitution.

This brings us to one very recent Supreme Court decision in this area, *Berger* v. *New York*.[35] That decision reversed 6–3 a state

---

[15] See Task Force on Organized Crime Report, supra note 2a, Appendix C; Blakey, Aspects of the Evidence Gathering Process in Organized Crime Cases, at 92; and Senate Hearings, supra note 10, testimony of District Attorney Hogan, at 1101–02.

[16] For a comparison of two representative bills introduced in the Senate, see Appendix.

[17] See Senate Hearings, supra note 10 at 922, Memorandum of Attorney General, I.A.; and statement of Attorney General Ramsey Clark voicing the Department of Justice's opposition to court-controlled wiretapping legislation, Senate Hearings, supra note 10 at 82.

[18] 48 Stat. 1064 (1934), 47 U.S.C. 151–609 (1964).

[19] Nardone 1. United States, 302 U.S. 379 (1937); Weiss v. United States, 308 U.S. 321 (1939).

[20] Nardone v. United States, supra note 19; Benanti v. United States, 355 U.S. 96 (1957).

[21] Nardone v. United States, supra note 19.

[23] Schwartz v. Texas, 344 U.S. 199 (1952).

[24] Statement of Attorney General Robert L. Jackson, Hearings on H.R. 2266 and H.R. 3099 before Subcomm. No. 1 of the House Comm. on the Judiciary, 77th Cong., 1st Sess. 18 (1941).

[25] Hearings on S. 2189 Before the Subcomm. on Criminal Laws and Procedures of the Senate Comm. on the Judiciary, 89th Cong., 2d Sess. 34 (1966). See also statement of Attorney General Clark, Senate Hearings, supra note 10 at 82.

[26] 31 Fed. Reg. 3400 (1966), amending 47 C.F.R. 15.11 (1966).

[27] See Attorney General's Memorandum to the Heads of Executive Departments and Agencies Concerning Wiretapping and Electronic Eavesdropping (June 16, 1967), reprinted in Senate Hearings, supra note 10 at 922–24.

[28] Olmstead v. United States, 277 U.S. 438 (1928).

[29] Goldman v. United States, 316 U.S. 129 (1942).

[30] Silverman v. United States, 365 U.S. 505 (1961).

[31] Wong Sun v. United States, 371 U.S. 471, 485 (1963).

[32] Osborn v. United States, 385 U.S. 323 (1966) (recorder); Lopez v. United States, 373 U.S. 427 (1963) (recorder).

[33] Hoffa v. United States, 385 U.S. 323 (1966) (admission overheard by informer, like result); Olmstead v. United States, supra note 28.

[34] Nardone v. United States, 308 U.S. 338 (1939).

[35] Berger v. New York, supra note 9.

conviction for conspiracy to bribe based on a court-ordered eavesdrop. The Court held that a search that would otherwise be unconstitutional because of the element of physical trespass into a constitutionally protected area is not validated by a court order pursuant to a statute [36] which "on its face" failed to meet certain standards required by the fourth amendment to the Constitution. Thus this opinion partially negates *Olmstead* by finding that conversations are within the fourth amendment and the use of electronic surveillance devices to "capture" them is a search. But the Court did not specifically negate *Olmstead's* other ground, i.e., where oral evidence is acquired by electronic devices which do not physically penetrate a constitutionally protected area, the fourth amendment does not govern.[37]

As discussed below, the *Berger* decision is an invitation to Congress to enact appropriately circumscribed wiretapping and electronic surveillance legislation.[38] An examination of the points stressed by the Court should reveal the basis for this outlook.

The Court found the statute did not require sufficient particularity in the orders concerning the place to be searched, the person's conversations to be overheard, and the expected nature of the conversations and the times at which they will be heard. Significantly, as will be seen below, the Court indicated that a statute meeting these standards would meet Constitutional requirements.

Mr. Justice Clark for the majority stated that the absence of particularization in the statute as to offenses to which it applied and descriptions as to the type of conversations to be overheard gave the officer executing the order a roving commission. While specific words of a future conversation are hardly predictable and therefore difficult to describe with particularity, such particularity ought not to be required. The test under the fourteenth amendment has been sufficient particularly in terms of the subject matter. Thus, where a search warrant may issue to seize equipment used in illegal off-track betting, a surveillance order could issue where the conversation may be described as the placing and receipt of bets on horesracing between suspected persons at a specified location.

The opinion then considered the statute's authorization of a two-month period of continuous surveillance, characterizing this grant as a "series of intrusions, searches, and seizures pursuant to a single showing of probable cause." [39] Thus, the period of the authority to wiretap or eavesdrop must be carefully considered and the standard is that no greater invasion of privacy can be permitted than is necessary under the circumstances.[40]

Moreover, the Court found that the statute apparently permitted surveillance to continue for the duration of the statutory period in spite of the fact that the objective for which the order had been sought may have been realized. A provision for self-termination on the eavesdrop once the conversation sought is seized—shutting down the "plant"—would meet this objection. Language to the effect that extensions of the order could be obtained only upon a showing of present probable cause for continuance would meet the Court's objections to the statutory scheme whereby extensions could be obtained solely on a showing that it was in the "public interest," with no probable cause showing required.

Mr. Justice Clark then discussed the issue of notice. Noting that the sucecss of the electronic surveillance warrant by its nature depends on the absence of notice, he found the statute had no requirement for notice as to conventional warrants nor did it overcome this defect by "requiring some showing of special facts" or "exigent circumstances." [41] But there is precedent for the showing of such "special facts." *Ker* v. *California* [42] sustained unannounced entry to arrest and to search where reasonable fear existed that an announced entry might lead to the destruction of evidence otherwise lawfully subject to seizure. Specific language conditioning the granting of an electronic surveillance order on a showing that "normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried," would appear to meet this objection.

Mr. Clark's objections that the statute did not require a return on the warrant—a report by the executing officer to the issuing Court on the results of the interception—does not create any legislative difficulties.

Where does this all leave us? On this point, I would quote Mr. Clark's remarks at page 21 of *Berger* in reference to the opinion of the dissenters that no warrant or statute could be drawn to meet the majority's requirements:

"If that be true then the 'fruits' of eavesdropping devices are barred under the [Fourth] Amendment. On the other hand this Court has in the past, under specific conditions and circumstances, sustained the use of eavesdropping devices. . . . The Fourth Amendment does not make the 'precincts of the home or office . . . sanctuaries where the law can never reach,' . . . but it does prescribe a constitutional standard that must be met before official invasion is permissible." [43]

In *Berger* the Court held the statute did not meet the Constitutional standard. But I do not read this case as making the pursuit of such a constitutionally-drawn statute fruitless. Rather, I read this case as an invitation to the Congress to work its legislative will on the difficult problem of drafting a just, effective and comprehensive wiretapping and electronic surveillance statute.

On June 29th, 1967, Senator Roman Hruska, introduced the "Electronic Surveillance Control Act of 1967" [44] which authorized electronic surveillance (eavesdropping and wiretapping) by duly authorized law enforcement officials under court order procedures. This legislation prohibited the private utilization of wiretapping and bugging.

Of utmost importance is that this bill is the only surveillange legislation pending before the Congress which was drafted post-*Berger* and with that decision specifically in mind. Others have also been active in this area—most notably the Chairman of the Senate Judiciary Subcommittee on Criminal Laws and Procedures, Senator John L. McClellan, who has a long history of concern and activity in combating the threat of organized crime in our society. But, as was stated at the time of introduction of S. 2050, every effort was made to respond to the criteria the Court set forth in *Berger* and to develop a proposal which would fully comply.

While I feel a natural reluctance to authorize the overhearing of private conversations, even where there is the possibility that evidence concerning criminal activity may be uncovered, I must admit some doubt as to whether any widetapping legislation should prevent the use of this weapon in society's struggle against organized crime—especially in view of the unique evidence-gathering problems in this area. The impact of the Crime Commission Reports, revealing testimony before the Senate Judiciary Subcommittee on Criminal Laws and Procedures, on which I serve, and discussions with persons interested and concerned with all aspects of the criminal justice system lead me to believe that if such organized criminal activity is permitted continued immunity while it infests all of our lives, it may well destroy the viability and organization of our system. At the least, I am afraid I may have been wrong to believe that society does not need this weapon in its struggle against organized crime.

It is for these reasons that I have decided to co-sponsor S. 2050, the Electronic Surveillance Control Act of 1967, introduced by Senator Hruska. This legislation has the following major provisions:

1. Private utilization of wiretapping and bugging would be flatly prohibited.

2. Federal authorities would be authorized upon the obtaining of federal court orders pursuant to application of the appropriate U.S. Attorney, to conduct carefully circumscribed and strictly controlled electronic surveillance in investigation of specified crimes involving national security and serious criminal offenses.

3. At the state level, electronic surveillance would be authorized pursuant to state statute and upon order of a court of general jurisdiction.

4. An elaborate system of checks and safeguards would be established whereby criminal and civil remedies would be available to prevent abuses and unauthorized surveillance by public officials and private persons.

I believe that this legislation can provide our law enforcement authorities a useful tool in their investigations of organized crime while not unduly disturbing the privacy of the ordinary, law-abiding citizen.

In short, the advantages to society of this legislation outweigh its disadvantages. If flaws appear in its administration, they can—and must—be corrected. In the hope of encouraging continued discussion on this important question and also of having such discussions shed light rather than heat, I conclude this article by (1) listing what appears to be the basic legislative criteria set out in *Berger* [45] followed by (2) a comparison submitted to me of two pending surveillance bills, one pre-*Berger* and the other post-*Berger*.

1. There must be a neutral and detached authority interposed between the police and the public; that is, orders for interception of communications falling within the privilege of the fourth amendment must be issued upon the order of an impartial judge of competent jurisdiction.

2. Probable cause must exist where the facts and circumstances within the knowledge of the official requesting the order (warrant) and of which he has reasonably trustworthy information, are sufficient unto themselves to warrant a man of reasonable caution to believe that an offense has been or is being committed.

3. The warrant must particularly describe

---

[36] N.Y. Code Criminal Procedure, Section 813–a, as amended L. 1958, c. 676, effective July 1, 1958.

[37] To the effect that while wiretapping therefore remains outside the 4th amendment, it would be prudent to consider Berger v. New York, supra note 9, in drafting such legislation, see statement of District Attorney Frank Hogan in Senate Hearings, supra note 10 at 1112. See also, Berger v. New York, supra note 9, Justice Douglas's dissent, at 64, to the effect that the decision completely overrules sub silentio Olmstead v. United States, supra note 28; and letter from Professor Kent Greenwalt, Judicature, Volume 51, Number 1, June–July 197 at p. 29; and statement of G. Robert Blakey in Senate Hearings at p. 934.

[38] On this point, see the excellent statements of District Attorney Frank Hogan and Professor G. Robert Blakey in Senate Hearings at p. 1092 and p. 932, respectively.

[39] Berger v. New York, supra note 9 at 59.

[40] See, Berger v. New York, supra note 9 at 56–58, for a discussion of Osborn v. United States, 385 U.S. 323 (1966).

[41] Berger v. New York, supra note 9 at 60.

[42] Ker v. California, 374 U.S. 23 (1963).

[43] Berger v. New York, supra note 9 at 63–64.

[44] S. 2050, 90th Cong., 1st Sess. (1967).

[45] See Speech of Senator Roman Hruska, S. 9145, CONGRESSIONAL RECORD, vol. 113, pt. 14, p. 17998.

the place to be searched and the persons or things to be seized.

4. The specific crime which has been or is being committed must be identified.

5. Precise and discriminate procedures must be spelled out for issuance of the order.

6. The order must relate to specific conversations sought so as to be construed to give authority for a general warrant.

7. Prompt extension of the warrant must be accomplished.

8. There must be probable cause for the continuation of the order.

9. There must be a termination date for the order once the conversation sought is obtained.

10. There must be a requirement for notice—apparently within a reasonable time—to the person against whom the order has been issued.

11. There must be a provision for a return on the order.

I welcome the comments, recommendations, criticism, and assistance of law enforcement and criminal justice personnel, the bar, bench, educators, interested citizens, aspiring law students and all who would work actively to formulate a concrete and reasonable approach to a major problem facing this Nation.* We can ill afford to shirk this responsibility. The need for action could not be clearer.

*Ed. Note. Shortly before the publication of this article, the Supreme Court held that the fourth amendment bars the admission of evidence obtained by an electronic eavesdropping device placed by FBI agents, without a search warrant, on top of a public telephone booth, even though no trespass occurred. Katz v. United States, 36 LW 4080 (December 18, 1967).

APPENDIX

COMPARISON OF THE TWO BILLS WHICH HAVE BEEN INTRODUCED RE WIRETAPPING AND EAVESDROPPING

S. 675 SENATOR M'CLELLAN'S BILL, FEDERAL WIRE INTERCEPTION ACT [Pre-Berger]	S. 2050 SENATOR HRUSKA'S BILL, ELECTRONIC SURVEILLIANCE CONTROL ACT [Post-Berger]
Prohibition	
Prohibits wire interception to overhear private conversations without consent of one of the parties to the conversation.	Same plus prohibits eavesdropping also (electronic devices).
Exemption	
Exempts routine activities of employees of a communications carrier or FCC.	Same.
Penalty	
Makes interception, disclosure, use or attempts at such unlawful except where authorized under Act; penalty for violation re this is $10,000 and/or 2 years.	Same as McClellan but penalty is $10,000 and/or 2 years.
Use as evidence	
Any information obtained in violation of this Act is inadmissible in evidence.	Same as McClellan.
Manufacturing equipment	
	Bans manufacture, shipment, advertising of devices useful for eavesdropping and wiretapping. Exempts from those provisions (with the exception of advertising) common carriers in the normal course of business and federal, state or local governments or persons under contract with such units of government. Penalty for violation is $10,000 and/or 5 years.
Seizure	
	Authorizes seizure and forfeiture of any device used, shipped, or manufactured in violation of this Act.
National security	
Excludes the application of this Act to the "President taking such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power or to protect the national security information against foreign intelligence activities". No information obtained under this power shall be used in any judicial or administrative proceeding.	Same as McClellan Bill but the information so obtained may be received in evidence—but only where the interception was reasonable.
Leave to intercept—Federal Government	
Permits Attorney General to authorize any federal law enforcement agency to apply to a federal judge for leave to intercept, and authorizes such judge to grant leave to intercept wire communications when such interception may provide evidence of certain serious felonies, to wit: Any offense punishable by death or imprisonment for more than one year and concerning violations of the Atomic Energy Act, espionage, sabotage, or treason; Any offense involving murder, kidnapping, or extortion which is punishable under Title 18 of the United States Code; Any offense involving the manufacture, importation, receiving concealment, buying, selling, or otherwise dealing in narcotic drugs. or marihuana punishable under laws of the U.S.; Any conspiracy to commit any of the foregoing acts.	Same as McClellan Bill, but the leave to intercept is for *eavesdropping* as well as wiretapping. The felonies concerned are (1) all the crimes listed in the McClellan Bill, plus (2) offenses relating to sports bribery, obstruction of justice, injury to the President, and welfare fund bribery.
Leave to intercept—State government	
Permits Attorney General of a State or the principal prosecuting attorney for any political subdivision thereof, to make application to State court judge of competent jurisdiction for leave to intercept wire communications within the State when such action may provide evidence of *any crime* or any conspiracy to commit crime as to which the interception is authorized by the law of that State.	Same as McClellan Bill, but such interception is limited to those cases where evidence of the following specific offenses may be provided: murder, kidnapping, gambling (if punishable as a felony), bribery, extortion or dealing in narcotic drugs or marihuana or any conspiracy involving the foregoing offenses.
Use of information by law enforcement officers	
Permits any investigative or law enforcement officer who has obtained knowledge of the contents of a wire communication in accordance with this Act to use or disclose such to another officer to the extent necessary for the proper performance of official duties. Also makes disclosure while giving testimony permissible where knowledge gained in accordance with this Act.	Same as McClellan, but concerns evidence derived from the intercepted communication as well as the communication. Intercepted information, gained in accordance with this Act, otherwise may be disclosed only upon a showing of good cause before a judge with authority to authorize such interception.

APPENDIX—Continued

COMPARISON OF THE TWO BILLS WHICH HAVE BEEN INTRODUCED RE WIRETAPPING AND EAVESDROPPING—Continued

S. 675 SENATOR M'CLELLAN'S BILL, FEDERAL WIRE INTERCEPTION ACT [Pre-Berger]	S. 2050 SENATOR HRUSKA'S BILL, ELECTRONIC SURVEILLANCE CONTROL ACT [Post-Berger]
Contents of application	
Each application for leave to intercept shall be made in writing upon oath or affirmation, and shall state the applicant's authority to make such (Federal or state statute). Each application shall include the following information: Full and complete statement of the facts and circumstances relied upon by the applicant; The nature and location of the communications facilities involved; A full and complete statement of the facts concerning all previous applications, known to the individual authorizing the application, made to any judge for leave to intercept wire communications involving the same communication facilities, or any of them, or involving any person named in the application as committing, having committed, or being about to commit an offense, and the action taken by the judge on each such application. The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.	Same as McClellan Bill, plus application must include: identity of the person authorizing it and the number of outstanding authorizations based on grounds similar to those in the present application.
Grounds for issuance	
Judge may enter an ex parte order granting leave to intercept if the judge determines on the basis of the facts submitted by the applicant that there is probable cause for belief that: (1) An offense for which such an application may be filed under this Act is being, has been, or is about to be committed. (2) Facts concerning that offense may be obtained through such interception. (3) No other means are readily available for obtaining that information. (4) The facilities from which communications are to be intercepted are being used or about to be used in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by a person who has committed, is committing, or is about to commit such offense.	Same as McClellan, with the exception that (3) reads as follows: (3) Normal investigative procedures have been tried and have failed or reasonably appear unlikely to succeed if tried. NOTE.—No probable cause test.
Public telephone	
	No public telephone may be intercepted, unless in addition to satisfying all the foregoing requirements, the judge also determines that: the interception will be conducted in such a way to minimize or eliminate intercepting communications of other users of the facility and there is a special need to authorize such interception.
Privileged communications	
	Conversations between husband and wife, doctor-patient, lawyer-client, or clergyman-confidant, may not be intercepted unless in addition to satisfying all the foregoing requirements, the judge also determines that: the interception will be conducted in a way that minimizes or eliminates intercepting "privileged communications" and there is a special need to authorize such interception. No privileged communication intercepted shall be disclosed or used other than as *it is necessary* in the authorized disclosure or use of an intercepted communication under this Act.
Contents of order	
Each order granting leave to intercept shall specify: The nature and location of the communications facilities as to which leave to intercept is granted; Each offense as to which information is to be sought; The identity of the agency authorized to intercept; The period of time during which such interception is authorized; No order granted may permit wiretapping for more than 45 days. Extensions may be granted for not more than 20 days each upon further application made in conformity with the above requirements and the necessary findings by the court.	Same as McClellan Bill
Emergency situations	
	Law enforcement officials may temporarily waive the formal requirements for authorization so long as the emergency situation requires such a waiver such authorization would be available absent the waiver Formal application must be made within 48 hours after the emergency interception. If the application is denied, no information obtained may be used or disclosed and the person whose conversation was intercepted must be notified of the interception.
Precautions for accuracy	
Applications made to a court and orders granted by a court shall be sealed by the court, not to be made public except in accordance with the Act or by court order.	Information obtained by interception shall be sealed & recorded by the authorizing judge and retained for a period of 10 years. Unless under seal (or no satisfactory explanation of its absence) the information contained in such recording may not be used in any court or other proceeding. Applications for interceptions must also be sealed by the judge and retained for at least 10 years.

APPENDIX—Continued

COMPARISON OF THE TWO BILLS WHICH HAVE BEEN INTRODUCED RE WIRETAPPING AND EAVESDROPPING—Continued

S. 675 SENATOR M'CLELLAN'S BILL, FEDERAL WIRE INTERCEPTION ACT [Pre-Berger]	S. 2050 SENATOR HRUSKA'S BILL, ELECTRONIC SURVEILLANCE CONTROL ACT [Post-Berger]
Copy to defendant	
The contents of a wire interception shall not be received in evidence or otherwise disclosed in any criminal proceeding in a federal court unless each defendant is furnished a copy of the authorizing court order not less than 10 days before trial.	Same as McClellan Bill, but the information from the interception cannot be used in *State court* as well as in federal court if defendant is not given notice.
Motion to suppress	
Any *defendant in a criminal trial in federal court* may move to suppress the use as evidence of any intercepted communication on the ground that: (1) Communication was unlawfully intercepted. (2) The authorization for interception is insufficient on its face. (3) There was no probable cause for believing the existence of the grounds on which the order was issued. (4) The interception was not made in conformity with the authorization. If the motion to suppress is granted, the evidence is inadmissible in a court or proceeding. Disclosure of the contents of the communication could result in criminal penalties depending on the law of libel and slander in the jurisdiction in question.	Same as McClellan, *but* "any *aggrieved person*" (a person who is the direct or indirect object of the interception) may move to suppress in *any trial, hearing, or proceeding.* NOTE.—Though the Hruska bill only contains (1), (2) and (4) as grounds for suppression and therefore not the *probable cause* test of (3), Senator Hruska's man says that the probable cause test is implied in (1). Same as McClellan Bill plus the possibility of civil damages (again depending on the law of the jurisdiction as to libel; what is publication; etc.) U.S. given right to appeal suppression order.
Reports concerning intercepted communications	
Within 30 days of the expiration of any order granting leave to intercept, the judge shall transmit to the Administrative Office of U.S. Courts and the Attorney General a copy of the order extensions, and the application(s) made therefor. Within 30 days of a denial of an application or extension, the judge shall transmit a copy of the application to the same parties. Each March, the Administrative Office shall transmit to Congress a report concerning the number (#) of applications made, granted, and denied during the preceding year. Such Report shall state: (1) Number of applications made by each federal agency and the number of orders granting or denying such (2) Number of applications made to, and granted and denied by, each federal or state court (3) Number of applications made, granted, and denied with respect to each category of criminal offense enumerated in the Act (4) Number of applications made, granted, and denied within each state and political subdivision with respect to each category of criminal offense.	Similar to McClellan Bill, plus some information which goes to the issue of the effectiveness of the interceptions and an accounting of the deposition of motions to suppress.
Witness immunity	
	Permits U.S. Attorneys to seek immunity from prosecution for witnesses in cases involving violations of this Act.
Recovery of civil damages	
	An individual whose communication is intercepted, disclosed or used in violation of this Act, is given (1) a civil cause of action against the person making the interception, disclosure or use and (2) is entitled to recover— (A) Actual damages but not less than liquidated damages computed at the rate of $100 for each day of violation or $1,000, whichever is higher; (B) Punitive damages; (C) Reasonable attorneys fees and litigation costs. A good faith reliance on an interception order issued by a judge pursuant to this Act shall constitute a complete defense to an action under this section.

ORDER FOR RECESS TO 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business this afternoon, it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MODIFIED ORDER FOR RECOGNITION OF SENATOR GRIFFIN TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unanimous-consent order heretofore accorded to the distinguished Senator from Michigan [Mr. GRIFFIN] be put into effect at the conclusion of the prayer tomorrow.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). Without objection, it is so ordered.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to speak briefly on a nongermane subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

TWENTIETH ANNIVERSARY OF THE FOUNDING OF ISRAEL

Mr. BYRD of Virginia. Mr. President, last Monday evening, May 13, it was my privilege to speak before the B'nai

B'rith men and women and the Richmond Jewish community council. The meeting at the handsome Jewish community center was to commemorate the 20th anniversary of the founding of Israel.

In the brief period of its existence, Israel has written a record of economic and political achievements which is unexampled among the 70 or more countries which acquired independence after World War II. Today, Israel stands as a model and an inspiration for those nations which aspire to better the lives of their citizens.

They could find no better example—unless it be the settlers and pioneers of our own country—of what people can accomplish when they are willing to help themselves.

Nor could the new nations of the world find better proof that rapid economic development does not have to come at the expense of democratic government.

Despite the constant military threat from its neighbors and the enormous obstacles to its economic survival, Israel has not wavered in its dedication to the principles of representative government and individual freedom.

For these reasons alone, the world has good cause to celebrate the anniversary of Israel's founding.

But there is another—perhaps more important—reason. And that is the role of Israel in providing a home and a refuge for the Jews of the world seeking to escape a history of 2,000 years of persecution in other lands.

We are vividly reminded of that history this year as we observe the 25th anniversary of the Warsaw uprising.

The heroic struggle of the Jews of Warsaw is a symbol of the undying spirit of the Jewish people in their quest for freedom.

The terrible atrocities of the Nazis in those years—the death of 6 million Jews in the gas chambers and concentration camps of the Third Reich—has stamped itself upon the conscience of the world. It must not be allowed to happen again.

It is with deep concern, therefore, that the world takes note of the resurgence of anti-Semitism in the Soviet Union and countries of Eastern Europe. Especially disturbing are the reports of repressions against Jews in Poland.

Scarcely 25 years have gone by since nearly 3 million. Polish Jews were exterminated. Today, the remaining few thousand Jews in Poland—probably not more than 25,000—are again the target of official repressions.

Rabbi Myron Berman of the Temple Beth-El, acting on behalf of the Jewish community in Richmond, presented me with a petition calling the attention of the Congress of the United States to the campaign of repression against Polish Jewry.

I ask unanimous consent to have the resolution printed at this point in the RECORD, and I invite the attention of the Senate and the House of Representatives to the resolution, signed by a group of outstanding Virginians.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

MAY 13, 1968.

We deplore the current resurgence of anti-Semitism in Eastern Europe. We note with dismay the efforts of the Soviet Union, and now of Poland, to attribute their military debacle in the Middle East and the emergence of internal political dissension to an alleged Zionist conspiracy. As the *New York Times* reported on March 15, 1968, the anti-Semitic campaign in Poland, transparently masked as anti-Zionism, constitutes a fundamental threat to the security of the few thousand Jews still remaining in Poland. Hardly twenty-five years have transpired since the extermination of almost three million Polish Jews.

Therefore, it is incumbent upon the free world, in the name of humanity, to protest the treatment of Polish Jewry and to denounce the resurgence of anti-Semitism in Eastern Europe.

We therefore call upon the Congress of the United States, which has traditionally championed the cause of the oppressed, to condemn the campaign of repression against Polish Jewry and undertake whatever measures it deems necessary to intercede on their behalf.

Signed by the following:

Saul Viener, President, Jewish Community Council.

Laurence Levy, Executive Committee Chairman, Virginia Regional Advisory Board, Anti-Defamation League of B'nai B'rith.

Dr. Myron Berman, Rabbi, Temple Beth-El.

Aaron Miller, President, Temple Beth-El.

Dr. Ariel Goldburg, Rabbi, Temple Beth Ahabah.

Lawrence Roffman, President, Temple Beth Ahabah.

Avrum Isaacs, Rabbi, Jewish Academy of Richmond.

Charles Schreiber, President, Jewish Academy of Richmond.

William W. Glick, President, Temple Beth Israel.

Harold Rapp, President, Congregation B'nai Shalom.

Mrs. Philip Dobken, President, Richmond Section National Council of Jewish Women.

Mrs. Aaron Miller, President, Richmond, Hadassah Chapter.

Mrs. Mitchell L. Applerouth, President, Richmond, B'nai B'rith Women.

Irving J. Koslow, National Executive Committeeman, Jewish War Veterans, Fourth Region.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD two articles published in the New York Times, one on April 20, 1968, and the other on April 18, 1968, and an Associated Press report of April 19, 1968—all dealing with the subject of repression of the Jews in Poland.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 20, 1968]

CONCERN OVER ANTI-SEMITISM

(By Anthony Lukas)

As Jews in the United States and elsewhere celebrated yesterday the 25th anniversary of the Warsaw ghetto uprising, fears were mounting in this country that a new wave of anti-Semitism once more endangered Polish Jews.

Reports reaching Jewish organizations, Polish émigrés and others here suggest that the anti-Semitic campaign in Poland has created a climate of fear among many Polish Jews.

Wladyslaw Gomulka, the Polish Communist leader, appears to have become alarmed by the excesses of the campaign, which evidently is directed at least partly at him. He and some of his close colleagues have sought to damp it down.

But some sources say they see indications that Mr. Gomulka has lost control of the situation and that persons both within and outside the party are determined to step up the attack on Jews to further their own political and ideological ends.

Analysts of Polish affairs here said the anti-Semitic campaign apparently began as a long-planned move in an intraparty power struggle waged by Maj. Gen. Mieczyslaw Moczar, the Minister of the Interior.

However, they said the theme had been enthusiastically picked up and elaborated upon by anti-Semitic groups in Poland—Boleslaw Piaseski's pro-Communist, Catholic Pax movement and the leaders of the nominally middle-class Democratic party, a political group with some representation in the Assembly.

So far, there is no evidence that the Polish man in the street has joined in the officially instigated denunciations of Jews. In fact, there are signs that many Poles reject the campaign.

However, some analysts here warn that if the movement continues to gain force, it could eventually tap the deep well-springs of traditional Polish anti-semitism and—in the words of one Polish émigré—could even lead to "outbursts of physical savagery."

NO REPORTS OF VIOLENCE

So far there has not been any report of physical violence against Jews. The campaign has relied on denunciations in the press and communications positions, and suppression of literary or artistic expression that offers support or sympathy for Jews.

In most cases the public pronouncements do not even mention the word Jew, and officials have repeatedly denied that anti-semitism is involved. Instead, they have used such terms as Zionists, alien forces, foreign elements, non-Polish persons or persons known for their national nihilism—all frequently used euphemisms for Jews.

However, even such indirect methods are reported to have created fear in the Polish Jewish community.

PANIC AND INSECURITY

A recent report from the Paris office of the American Jewish Committee said, "the purges of Jews on all levels of cultural life and Government departments is assuming such proportions that every Jew in Poland is practically in a state of panic and insecurity, at least economically, if not yet physically."

Anti-semitism is nothing new to Poland. Jews have experienced abuse, persecution and outright physical attack off and on since they settled there in the 10th century.

For many centuries the peasants were the predominant element in the Polish population and there was no indigenous middle-class. The Jews supplied the country with craftsmen, middlemen, innkeepers and a small group of rich merchants.

They seem to have been protected by the kings, but hated and abused by some of the clergy, townspeople and the great mass of peasantry. The nobility generally despised them but also protected and employed them as middlemen.

Despite all this, Polish Jews developed a flourishing cultural and religious life. When Poland regained her independence after World War I, the Jewish community there was one of the largest and most vital in the world.

Then came the German march into Poland and the Nazi occupation. In 1939 there were about 3.3 million Jews in Poland. There were 50,000 to 70,000 left when Poland was liberated in 1945. Many Jews who had fled were repatriated, but soon there was a reverse flow of Jews emigrating, primarily to the United States and Israel.

20,000 TO 30,000 THERE NOW

Today there are believed to be only 20,000 to 30,000 Jews left in a total Polish popula-

tion of about 33 million. Most of them are old people, widows, invalids and others who for one reason or another did not want to abandon their homeland. A report by the American Jewish Committee estimates that 59 per cent of the Jews now in Poland are 40 years old or over.

In addition, there are an estimated 10,000 to 15,000 people who do not regard themselves as Jewish but who have Jewish ancestors or are married to Jews, and thus are regarded as tinged with Jewishness. Mr. Gomulka's wife, Sofia, is Jewish.

There was little overt antisemitism in Poland for the first 10 years after the war. The memory of Nazi atrocities was still too strong. Perhaps even more important, many members of the Government and party leaders in the Stalinist era were Jewish.

These men belonged to the so-called Muscovite group—Jews who fled from Poland to the Soviet Union during the war and remained there until liberation. Stalin saw to it that these Soviet-trained Jewish Communists were installed in key positions in the post-war Polish regime.

MANY ABANDONED STALINISM

In 1956, when Poland's rigid Stalinist Government gave way to the nominally liberal Gomulka regime, many Jews were among the first to turn away from the old line. The Stalinists, casting about for some weapon with which to defend themselves, resorted to anti-Semitic slurs. But this backfired, gaining more sympathy for the Jews and the new Gomulka line.

Until recently, many Jews remained in high positions in the Government and the party. Guided by what one Pole has called "the ideology of fear," they swung with the prevailing wind. As Mr. Gomulka's promise of liberal reform has faded, many have swung back toward the harsh line.

According to Jewish émigré sources, the current "anti-Zionist" campaign appears to have been carefully planned by General Mozcar as part of the struggle for succession to Mr. Gomulka now going on inside the party.

[From the New York Times, Apr. 18, 1968]

EXCESSES IN PURGE SCORED IN POLAND: GOMULKA ASSOCIATE CHARGES "FILTHY DEFAMING" OF AIDES IN "ANTI-ZIONIST" DRIVE

(By Jonathan Randal)

WARSAW, April 18.—A Communist official close to Wladyslaw Gomulka, the party leader, has charged that the current "anti-Zionist" campaign has gotten out of hand and deteriorated to the level of "downright filthy defaming of people," it was disclosed tonight.

The first such public admission was made by Jozef Kepa, the Warsaw city secretary, who pointedly recalled that Mr. Gomulka said last month that Zionism was not a danger to Poland's Communist system.

That injunction for moderation was disobeyed and Mr. Kepa's remarks, made yesterday, were believed to reflect an effort by forces associated with Mr. Gomulka to strike back at those who challenge his authority.

ISRAEL IS DENOUNCED

Despite Mr. Kepa's admonition, a speaker used today, the commemoration of the 25th anniversary of the uprising of the Warsaw ghetto, to compare Israel's "Zionist agression" against the Arabs to the Nazis' massacre of Jews in World War II.

The charges were made at a ceremony organized by the Polish veterans' association in honor of Polish Jews who fought German tanks, planes, flamethrowers and artillery in the month-long ghetto uprising in 1943.

The veterans' organization is headed by Interior Minister Mieczyslaw Moczar, who many Poles believe is a driving force behind the current campaign against "Zionism."

The warning against excesses in the "anti-Zionist" campaign were made by Mr. Kepa before the same audience—members of the Warsaw party organization—that Mr. Gomulka addressed a month ago. Mr. Kepa's speech was made public tonight by the Polish press agency, which provided no explanation for the delay.

"We must chiefly fight energetically against attempts to foster social demagoguery that the political adversary tries to introduce into our party ranks," Mr. Kepa said.

Without identifying the adversary, Mr. Kepa said that "he attempts to use our correct political and ideological fight against Zionism for various aims contrary to the position of the party."

At the same time Mr. Kepa sought to strengthen the threatened dominant role of the Central Committee and the Politburo, which are still controlled by Mr. Gomulka and his associates.

These ruling bodies of the party have been under indirect attack in the leadership struggle from advocates of change identified with General Moczar, the Interior Minister.

Observers regarded Mr. Kepa's speech as a counteroffensive by Mr. Gomulka, who in the last six weeks has faced his gravest crisis since assuming power in 1956.

"All basic party organizations will be directed by principles binding in our movement and will observe the principle of Democratic centralism," Mr. Kepa said.

Political analysts suggested that this phrase was intended as a rebuff to the advocates of change who have appealed directly to party cells to take decisions in disregard of normal party practice reserving initiative to the leadership Democratic centralism means the party leadership in Communist parlance, the analysts stressed.

Mr. Kepa approved of the recent purges, but tempered his approval with criticism of the methods used. He said certain unidentified newspapers had been excessive.

METHODS CRITICIZED

He condemned "a sort of extremism that makes itself felt in a certain clamoring, in a simplified use of the concept of Zionism, a hasty generalization of some disquieting phenomena in our economic and social life, a too hasty transferring of criticism of the educational situation at Warsaw University and some other colleges to the entire educational system."

"We must undertake a sharp fight against downright filthy defaming of people," he added.

The speech at today's commemoration of the Warsaw ghetto uprising was made by Kazimierz Rusinek, secretary general of the veterans' organization. In referring to Israel's charges of Arab sabotage in Israeli-occupied areas, Mr. Rusinek said:

"Bad Zionist tongues clamor about the alleged indifference of Poles to the destruction of Jews during the occupation," he said in denouncing what the regime has called a Zionist campaign to slander Poland.

He asserted that the "betrayal and indifference of world Zionism and the Western powers" were responsible for the destruction of Jews in World War II.

Mr. Rusinek quoted what he termed a message from ghetto fighters sent to American Jews complaining that "the remnants of Jews are convinced that during the most horrible days in our history you have not given us help."

The Veterans official charged that "rich Jews in the United States and England cared more for their billions deposited in banks than about the fate of Jews burned in the crematories of Auschwitz."

The uprising of the Warsaw ghetto involved the last 65,000 of the half-million Polish Jews who had been concentrated there by the Germans before their extermination in Treblinkka and other death camps.

The alleged campaign against Poland seeks to "rehabilitate the murderers and place the guilt on their victims," Mr. Rusinek told an audience of several thousand gathered in the auditorium of the Palace of Culture.

His voice shaking with emotion, Mr. Rusinek said: "There is no country in Europe that displayed so much heroism in saving Jews as did the Polish nation and there is no country that had so many victims for helping the Jews."

He recalled that the first victims of the Auschwitz camp, when it opened in 1940, were "Poles, soldiers, priests and teachers." He did not say that as many as three-quarters of the four million victims who died in Auschwitz were Jews.

Earlier, more than a dozen Polish organizations and a visiting delegation of Argentine Jews placed wreaths on the granite monument that stands on what was the ghetto before the Germans razed it after the uprising.

Military drummers beat a slow tattoo through the 15-minute ceremony which was attended by a few hundred persons, many of them children.

[From Associated Press Report, Apr. 19, 1968]

GOMULKA ASSOCIATE TRIES TO MUTE POLAND'S CAMPAIGN AGAINST JEWS

WARSAW, April 19.—A close associate of Communist Party chief Wladyslaw Gomulka has made another attempt to tone down the current anti-Jewish campaign in Poland and warned that it must not become "downright filthy defaming of people."

Jozef Kepa, first secretary of the Warsaw Party Committee, said in a speech released last night, "A sort of extremism is making itself felt in a certain clamoring, in a simplified use of the concept of Zionism."

Kepa quoted from Gomulka's speech March 20 in which the Party leader said Zionism was no danger to the Communist Regime. In that speech, Gomulka apparently attempted—but failed—to tone down the clamorous anti-Jewish statements in the press, on television and in public speeches.

NEW DENUNCIATIONS

A few hours before publication of Kepa's speech, the secretary general of the Polish veterans' organizations made new denunciations of Israel and Zionism at a ceremony observing the 25th anniversary of the Warsaw Ghetto uprising against the Nazis.

Kazimierz Rusinek told the few hundred persons who attended the 15-minute ceremony that "the crimes which Israeli soldiers commit against the Arab people, we remember from the times of Hitler's occupation."

He accused "rich Jews in the United States and England," world Zionism and Western nations of "betrayal and indifference" toward the unsuccessful 1943 uprising.

The uprising began April 19, 1943, when only about 65,000 Jews remained of the half million who had been jammed into the ghetto by the Nazis. The others had starved, died of disease cr been shipped to death camps. It took the Nazis about a month to quell the uprising and level the ghetto. Most of the 56,000 Jewish survivors were sent to the gas chambers at Treblinka.

MOCZAR'S VIEWS

Observers said Rusinek's speech reflected the views of Mienyslaw Moczar, Poland's interior minister and secret police chief who is rumored to be contesting with Gomulka for power.

These observers said Kepa in his speech probably was referring to Moczar when he said a "political adversary" had attempted to "use our correct political and ideological fight against Zionism for various aims contrary to the position of the Party."

Kepa also spoke of "reactionary forces" which try to profit from "the political campaign conducted by the Party." He said "standing up against Zionism cannot weaken the sharp fight with the forces of revisionism . . . with all kinds of political reaction."

Another aspect of Kepa's speech was reported by Reuters:

"The voice of the reactionary party of the Church hierarchy" had been heard among forces united against the people's power, Kepa said in condemning the support given by Polish Roman Catholic leaders to the student demonstrations last month for intellectual and democratic freedoms.

It was the first time the authorities had publicly attacked the Church for its stand on the student troubles. The criticism seemed clearly aimed at the Primate, Stefan Cardinal Wyszynski. The Cardinal has praised the students for their maturity and moderation.

Kepa said there was considerable convergence between the hierarchy's views and allegations of police brutality toward students raised in a recent parliamentary question by five right-wing Catholic deputies.

The deputies, of the Znak association of lay Catholics, defended the demonstrators, saying they were not hostile to socialism and that police intervention during demonstrations had aggravated the situation.

Mr. BYRD of Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SPONG in the chair). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. ERVIN. Mr. President, article V of the Constitution provides as follows:

> The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

In discussing this article in the Federalist, James Madison said that the Constitutional Convention of 1787 recognized that time would suggest that there should be changes in the Constitution, and that the Convention provided this method, and this method only, for amendment as a happy compromise between making it too difficult to amend the Constitution and making the Constitution as changeable as statutes. This is the only provision in the Constitution which authorizes any change in the Constitution.

I should like to make it very plain that amending the Constitution is a power which can be exercised only by Congress and the States under the circumstances set forth specifically in article V. The Supreme Court of the United States has the undoubted power to interpret the Constitution, but it does not have the power to amend the Constitution in any respect.

The power to amend the Constitution is the power to change its meaning; the power to interpret the Constitution is the power to ascertain its meaning; and the power of the Supreme Court extends only to the power of interpreting the Constitution, and the laws and treaties of the United States.

The Supreme Court has no authority to change the meaning of a single word in the Constitution, or the meaning of a single clause in the Constitution. Those who drafted the Constitution attempted to place Supreme Court Justices in a situation where they would never be tempted to usurp and exercise the power to change the meaning of the Constitution. They attempted to put them beyond the reach of all earthly temptations. They provided first that they should hold office for life. They provided second that they should receive compensation for their services which could not be diminished by Congress or any other power on earth. Then, for the purpose of enjoining them to interpret the Constitution according to its true intent, and to effectuate the purposes of the men who drafted it and ratified it, they put a provision in the Constitution requiring the judges to take an oath to support the Constitution.

This Constitution belongs to the American people. It does not belong to five, or six, or seven, or eight, or nine Supreme Court Justices. The purpose of all constitutional interpretation is to ascertain the intent of those who framed and those who ratified this great document. So it can be truly said, Mr. President, that the very existence of constitutional government in the United States is absolutely dependent upon the majority of the Supreme Court interpreting the Constitution according to the true intent of those who drafted and ratified this great instrument.

The people of the United States, through their representatives in the Constitutional Convention, drafted this Constitution and subsequently ratified it because they had observed from the history of the past that no men, or set of men, could be trusted safety with unlimited governmental power.

A great Virginian, James Madison, pointed out that when you combine the power of making laws, and the power of enforcing laws, and the power of interpreting laws in one body of men you have a tyranny regardless of the name by which you may call a government in which such powers are concentrated.

Now, when all is said, there is only one restriction, or to put it a little more accurately or a little more technically correct, there is only one practical check or balance upon the powers of Supreme Court Justices. When this Constitution was written, a great Virginian, George Mason, and a great resident of the Commonwealth of Massachusetts, Elbridge Gerry, opposed its ratification on the ground that there was no real check or balance to prevent the usurpation of power by the Supreme Court. Their argument was met by Alexander Hamilton, who said that argument was a phantom. He said that the argument of Mason and Gerry was a phantom because there would be very few men in the country fit for the position of judge and they would be men who by long and laborious study had acquired a knowledge of the law and the precedents, and they would feel themselves bound down by the law and the precedents, and they would follow the law and the precedents.

Mr. President (Mr. SPONG in the chair), what Alexander Hamilton was saying, in substance, was that no man is fit for the station of judge in a government of laws as distinguished from a government of men, unless he is able and willing to subject himself to the restraint inherent in the judicial process when the judicial process is rightly understood and applied.

What is the restraint inherent in the judicial process? It is the ability and the willingness of the judge to lay aside his personal notions of what the Constitution or a statute should say and to be guided solely by what the Constitution or the statute does say.

Despite my great reverence for George Mason and Elbridge Gerry, I think there is one check or balance which the Constitution places upon the Supreme Court. It is the only practical restraint which is placed upon the Supreme Court by the Constitution. Of course, Congress and the States, by concurring action, can overrule or rather set aside a ruling by the Supreme Court which they deem to be inconsistent with the Constitution by the long, tedious, and difficult process of amending the Constitution to restore the original meaning of the Constitution. That is a very cumbersome process and it may be an absolutely vain process if followed because if the Supreme Court Justices do not attribute to the plain words of the Constitution their obvious meaning and instead of doing so substitute their personal notions for what the Constitution provides, there is no assurance that the same Justices will not do the same thing in respect to any amendment which may be adopted by the Congress and the States to restore the original meaning of the Constitution after the handing down of the decision which ignores the Constitution.

The only practical check is set out in as plain words as appear in the Constitution. Article III provides to what kind of cases the judicial power of the United States can extend. It divides the jurisdiction of the Supreme Court of the United States into two classes—to wit, original jurisdiction and appellate jurisdiction.

Section 2 of article III states in part:

> In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction.

Mr. President, that is jurisdiction which the Court takes fully under the Constitution. Congress does not have

the power to deprive the Supreme Court of its appellate jurisdiction in the limited classes of cases mentioned.

But section 2 of article III further specifies:

> In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

This provision of the Constitution gives to Congress, in as plain words as can be found in the English language, the undoubted power to limit the jurisdiction of the Supreme Court in all cases not falling within the original jurisdiction of the Supreme Court.

That has been held by the Supreme Court itself in a multitude of cases and no other interpretation can be placed upon those words of the Constitution.

For some strange reason, men who condemn the usurpation of power by the President, or the usurpation of power by Congress, seem to regard the usurpation of power by a majority of the Supreme Court Justices as something sacrosanct and something for the American people to endure unless the Constitution is amended by the States and the Congress, acting in concert.

That is not true, as the words of the Constitution declare.

The self-incrimination clause of the fifth amendment which states, "nor shall be compelled in any criminal case to be a witness against himself," means just exactly what it says. It says that it applies where a man is compelled to be a witness against himself in a criminal case or a case tantamount to a criminal case.

It has no possible application to voluntary confessions, as the Supreme Court of the United States held in every case from the 15th day of June 1790, when those words became a part of the Constitution, down to the 13th day of June 1966, when the Supreme Court, by a 5-to-4 decision, handed down the Miranda case and attempted to make it apply to voluntary confessions.

The majority opinion confesses at least twice, whether voluntary or involuntary I do not say, that the majority were usurping and exercising the power to change the meaning of the self-incrimination clause, because the majority opinion speaks of the warnings it invented that day as the principles, or the warnings announced today—that is, June 13, 1966—warnings invented for the first time, 176 years after those words became a part of the Constitution.

The Miranda decision is inconsistent with the words of the Constitution. It is inconsistent with every decision of the Supreme Court of the United States construing the Constitution through a period of 176 years. It is also inconsistent with all the practices followed by law-enforcement officers during that 176 years.

When the Supreme Court handed down its 5-to-4 decisions in the Wade and the Gilbert cases, the majority of the Court undertook to place limitations upon the admissibility of the testimony of an eyewitness that he saw the accused commit the crime, and to exclude such testimony under specified circumstances on the trial of criminal actions in both Federal and State courts. The majority of the Court confessed that in so doing they were not interpreting the words of the sixth amendment providing that "in all criminal prosecutions, the accused shall enjoy the right to have the assistance of counsel for his defense", but, on the contrary, they were giving a new meaning to those words which no one could have anticipated would ever be assigned to them before June 12, 1967, the date the cases were decided.

The confession of the majority that they were amending the Constitution rather than interpreting it appears in the Stovall case, reported in 388 U.S., page 293. I should like to direct the attention of the Senate to the confession which appears on page 299. It was made because the question had been raised whether the new rule declaring it unconstitutional under the right to counsel clause of the sixth amendment for an eyewitness to look at a suspect in custody for the purpose of identifying or exonerating the suspect as the perpetrator of a crime the eyewitness saw committed, unless the lawyer representing the suspect is present was to be applied retroactively.

The rule is unworkable. It is out of harmony with life and psychology. But the Court held in the Wade and the Gilbert cases that if an eyewitness saw a suspect in custody for the purpose of identifying him or exonerating him as the perpetrator of a crime the eyewitness saw committed, when an attorney representing the suspect was not present, that the eyewitness could not be permitted to take the witness stand on trial on the merits against the suspect and testify that he saw the suspect commit the crime and based his identification of the suspect solely upon what he saw at the time the crime was committed unless the judge stops the trial and assumes the role of psychologist and delves into the innermost recesses of the mind of the witness and ascertains by clear and convincing evidence that the pretrial view of the suspect by the witness, in the absence of the suspect's lawyer, did not influence the eyewitness in his positive testimony that he recognized the suspect as the man he saw commit the crime.

As I say, that rule is contrary to psychological principles. It is contrary to common sense, because no judge can invade the mind of a man and say at what particular time that man's mind received an impression or came to a certain conviction of truth.

Yet, unless a judge can do that, under this rule, and say as a result that he finds by clear and convincing evidence that the pretrial view had nothing whatever to do with the willingness of the eyewitness to testify that he saw the suspect commit the crime, it is not competent in evidence.

I say this was a new rule, contrary to the words of the sixth amendment, contrary to every decision handed down under the sixth amendment by the Supreme Court, and contrary to the rules of evidence followed by the courts in the enforcement of criminal law in this land.

Here is the voluntary, or involuntary, confession, whatever it may be, of the majority that handed down the Wade and Gilbert cases as set out:

> The law enforcement officials of the Federal Government and of all 50 States have heretofore proceeded on the premise that the Constitution did not require the presence of counsel at pretrial confrontations for identification.

I digress from reading the confession of the majority to remark that the law-enforcement officials of the Government of all our States had entertained that opinion for 177 years, and it was perfectly correct and was in harmony with the decisions and interpretations of the Supreme Court construing those words.

I proceed to read the Supreme Court's confession:

> Today's rulings were not foreshadowed in our cases; no court announced such a requirement until Wade was decided by the Court of Appeals for the Fifth Circuit, 358 F. 2d 557. The overwhelming majority of American courts have always treated the evidence question not as one of admissibility but as one of credibility for the jury.

I digress from reading the confession of the majority of the Supreme Court to say that that was what had been recognized for 177 years to be true under the sixth amendment.

I resume the reading of the confession of the majority of the Supreme Court in the Stovall case:

> Law enforcement authorities fairly relied on this virtually unanimous weight of authority, now no longer valid, in conducting pre-trial confrontations in the absence of counsel. It is, therefore, very clear that retroactive application of Wade and Gilbert "would seriously disrupt the administration of our criminal laws."

So, on that basis, the Supreme Court said that the new rule it invented on the 12th day of June 1967 applied only to cases originating after the rule was announced on that day and had no application to any cases which had arisen between the time those words were placed in the Constitution on June 2, 1790, and the 12th day of June 177 years later.

Yet some of those who oppose this bill say that the Congress should refuse to enact title II of the bill in the exercise of its undoubted power under section 2 of the 3d article, and continue to let criminals go free for want of identification even though they can be positively identified by eyewitnesses who saw them commit the crimes for which they are placed on trial.

As I said in the closing statement I made on this subject previously, I think enough has been done for those who murder, rape, and rob. It is time for Congress to do something, under section 2 of article III, for those who do not wish to be murdered or raped or robbed.

BLOCK GRANTS

Mr. PROXMIRE. Mr. President, I feel compelled to speak in opposition to the block grant amendment to Senate bill No. 917. It would provide for financial assistance to improve law enforcement and criminal justice on the local level only through block grants to the States, instead of providing financial assistance di-

rectly to both State and local governments in the Nation's war against crime.

It is obvious that the block grant approach is fraught with significant defects. The amendment fails to recognize that the local level of government in our major metropolitan areas is the primary unit responsible for law enforcement. There can be no doubt today that the greatest need for financial assistance to improve the quality of law enforcement and criminal justice is in these metropolitan areas.

State involvement in law enforcement is minimal. Ninety percent of the 348,000 full-time State and local police officers in the country are employed by county and municipal police agencies, according to the report of the President's National Crime Commission. Seventy-two percent of the total State and local expenditures for law enforcement are made by local governments.

Equally serious, the block grant amendment poses the grave threat of State domination over local law enforcement. Continuing political controversies and partisan rivalries between State and local governments will seriously upset the historic balance between State and local law-enforcement agencies.

In addition, the block grant amendment creates a potential conflict of interest for States which act as applicants in their own right and as applicants on behalf of local units within the State.

It has been argued that the proposal for directing title I funds to units of local government from the Federal level would bypass the States. Nothing could be further from the truth. In neither its language nor its intent does title I bypass the States.

Indeed, under title I all grants to local units would be subject to review and comment by the State Governor. Rather than being bypassed, the Governor's role is increased with respect to overall State planning. The State Governors are thus given full opportunity to join in the coordination and direction of all law-enforcement activities in the States.

Title I retains the maximum flexibility that is appropriate in a new Federal grant program. It also provides for grants to be made directly to local governments. The program thus combines the threefold expertise of Federal, State, and local agencies in the fight against crime. The "block grant" concept, on the other hand, would drastically reduce participation at both the Federal and local levels, leaving the sole responsibility for the war against crime to State-level agencies.

Experience reveals that, of the three levels, by and large, State agencies are the least qualified to take on such a role.

The block grant amendment would deny units of local government their essential role in the war against crime. Accordingly, I urge the adoption of title I as reported out by the Senate Judiciary Committee.

DR. NOEL O. GONZALEZ

Mr. EASTLAND. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives amending S. 68.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 68) for the relief of Dr. Noel O. Gonzalez which was on page 1, line 6, strike out "April 20, 1962." and insert "May 4, 1962.".

Mr. EASTLAND. Mr. President, on May 18, 1967, the Senate passed S. 68, to grant lawful permanent residence to the beneficiary retroactively. On May 7, 1968, the House of Representatives passed S. 68 with an amendment to grant such permanent residence as of the date of parole into the United States, rather than as of the date of arrival.

The amendment is technical and does not affect the benefits provided in the bill. I move that the Senate concur in the House amendment to S. 68.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi that the Senate concur in the House amendment.

The motion was agreed to.

CITA RITA LEOLA INES

Mr. EASTLAND. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives amending S. 107.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 107) for the relief of Cita Rita Leola Ines, which was on page 1, line 5, after "natural-born" insert "alien".

Mr. EASTLAND. Mr. President, on October 19, 1967, the Senate passed S. 107 to enable the 3-year-old beneficiary to qualify for second preference status as the unmarried daughter of a lawful permanent resident of the United States.

On May 7, 1968, the House of Representatives passed S. 107 with a technical amendment that does not affect the benefits provided in the bill.

I move that the Senate concur in the House amendment to S. 107.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi that the Senate concur in the House amendment.

The motion was agreed to.

DR. JOSE FUENTES ROCA

Mr. EASTLAND. Mr. President, I ask that the Chair lay before the Senate the message from the House of Representatives amending S. 2248.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2248) for the relief of Dr. Jose Fuentes Roca, which was, on page 1, line 6, strike out "September 5, 1961" and insert "September 6, 1961."

Mr. EASTLAND. Mr. President, on October 19, 1967, the Senate passed S. 2248 to grant lawful permanent residence to the beneficiary retroactively. On May 7, 1968, the House of Representatives passed S. 2248 with an amendment to grant such permanent residence as of the date of parole into the United States, rather than as of the date of arrival.

The amendment is technical and does not affect the benefits provided in the bill. I move that the Senate concur in the House amendment to S. 2248.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Mississippi that the Senate concur in the House amendment.

The motion was agreed to.

PARTICIPATION OF FEDERAL EMPLOYEES IN BOYCOTTS AND RIOTS

Mr. EASTLAND. Mr. President, I have been informed by reliable sources that at least four employees of the Office of Economic Opportunity in Bolivar County, Miss., are leading a black power boycott directed against the schools and businesses of Shelby. The employees to which I refer are Bobbie Holmes, L. C. Dorsey, L. M. Reynolds, and Mildred Coleman. This information has come to me by correspondence from Mr. W. E. Adams, a member of the board of trustees of Bolivar County School District No. 3, and the Honorable Charles C. Jacobs, Jr., attorney at law, Cleveland, Miss.

Unfortunately, this type of conduct has been the rule rather than the exception in the operation of OEO projects in Mississippi. It is inexcusable that Federal employees should be allowed to foment lawlessness and disorder. If these reports are true, not only is their conduct reprehensible on its face, but violative of the civil and criminal prohibitions of Mississippi law, including but not limited to, section 1088 and the following, dealing with unlawful restraints of trade, and section 2236.5, prohibiting the willful and malicious interference with a lawful trade or business, and so forth.

These instances have not been confined to Mississippi. During the antiriot hearings last year the Senate Judiciary Committee received substantial evidence of widespread participation by OEO employees in the riots of 1967. It has recently been reported that large numbers of Federal employees were arrested as participants in the riots which occurred in Washington last month. After 2 years of such exposures, it is incredible that these practices are still permitted to continue.

I have today written a letter to the Honorable Bertrand M. Harding, Acting Director, Office of Economic Opportunity, asking that an investigation be made into this matter. I ask unanimous consent that this letter, together with enclosed letters from Mr. Adams and Mr. Jacobs, and a letter addressed to "Merchants, Shelby, Miss.," be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington D.C. May 13, 1968.

Hon. BERTRAND M. HARDING,
Acting Director, Office of Economic Opportunity, Washington, D.C.

DEAR MR. HARDING: I enclose letters from W. E Adams, a member of the Board of Trustees of Bolivar County School District No. 3, Shelby, Mississippi, and Honorable Charles C. Jacobs, Jr., attorney of Cleveland,

Mississippi, relative to some OEO employees in Shelby, Mississippi.

This disturbs me very much. If these employees are conducting themselves in this fashion, I think you should know about it and I think something should be done immediately.

I would appreciate your having the matter looked into and advising me.

Sincerely yours,

JAMES O. EASTLAND,
U.S. Senator.

Enclosures.

SHELBY, MISS.,
May 8, 1968.

Hon. JAMES O. EASTLAND,
U.S. Senate,
Washington, D.C.

DEAR SIR: I am a member of the Board of Trustees of Bolivar County School District Number 3, and we have been experiencing great difficulty during the last week from a student boycott of Broad Street High School in Shelby and a boycott of merchants in the City of Shelby. This movement has been organized and conducted by a black militant group according to information reaching us.

One of our concerns is that three of the leaders of the boycott movement are employees of the Tufts OEO Project in Mound Bayou and have been observed last Friday, Monday, and today demonstrating on the street in front of Broad Street High School. We are told that they receive their daily pay while absent from their duties for this purpose. Arthur Gunby, a Negro policeman in Shelby, has given us their names: Mrs. L. M. Reynolds, Mrs. Mildred Coleman, Mrs. L. C. Dorsey.

Knowing your interest in preventing misuse of federal funds, I hope your office can influence the discharge of these individuals.

Sincerely yours,

W. E. ADAMS.

JACOBS, GRIFFITH & HATCHER,
Cleveland, Miss., May 8, 1968.

Senator JAMES O. EASTLAND.
Senator JOHN STENNIS.
Congressman TOM ABERNATHY.

GENTLEMEN: Last night I attended the Town Board meeting at Shelby, Mississippi, and one of the gentlemen at the meeting produced a letter which was sent to him as a merchant in the City of Shelby, Mississippi, with reference to a boycott of the businesses in Shelby by the negro citizens of that area.

This letter is signed by Bobby Holmes and Dorsey, both of whom are paid with federal money. Bobby Holmes works for the Head-start Program and Dorsey is employed in Mound Bayou by the Tufts Medical Center.

This same group has organized a boycott of the colored school which has been very effective in keeping negro youngsters from the school. I thought you would be interested in knowing what our Washington money is promoting on a local level.

I am advised that all of this action stems from the fact that the School Board failed to renew the contracts of two male teachers. I am informed also that these teachers have been actively advocating "black power" among the students at the school, which was probably one of the reasons that their contracts were not renewed.

Yours very truly,

CHARLES C. JACOBS, Jr.

SHELBY, MISS.,
May 7, 1968.

MERCHANTS,
Shelby, Miss.

DEAR SIR: This is to serve notice that the selective buying campaign being conducted in Shelby is not directed at you, solely.

However, we do solicit your support in our effort to negotiate with the school board for the renewal of our teachers' contracts.

These people were customers of yours. Their salaries constituted a sizable part of your income.

We feel that you owe them your support.

Sincerely,

SHELBY EDUCATIONAL COMMITTEE.
Mrs. LUCINDA YOUNG, *Chairman.*
Miss BOBBIE HOLMES, *Secretary.*
Mrs. L. C. DORSEY, *Spokesman.*

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. LONG of Louisiana. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TYDINGS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I send to the desk a unanimous-consent request and ask that it be read.

The PRESIDING OFFICER. The clerk will read the unanimous-consent request.

The legislative clerk read the unanimous-consent request, as follows:

Ordered, That on the pending Hruska amendment, debate be limited to 4 hours, to be equally divided and controlled by the Senator from Nebraska and the senior Senator from Connecticut or whomsoever he shall designate; that on the Kennedy perfecting amendment the time be limited to 3 hours; that on all other perfecting amendments the time be limited to 1 hour; that the time on the Dirksen substitute be limited to 1 hour; that the time on the amendments be equally divided and controlled by the sponsor of the amendment and the manager of the bill, Senator MCCLELLAN, or whomsoever he shall designate; that this agreement shall become effective on tomorrow. It is the understanding that all voting will take place on Thursday.

Mr. MANSFIELD. Mr. President, it is my understanding that the distinguished Senator from Michigan [Mr. GRIFFIN] will be recognized at the conclusion of the prayer and the disposition of the Journal tomorrow, for not to exceed 20 minutes.

ORDER FOR RECOGNITION OF SENATOR HRUSKA

I ask unanimous consent that following the conclusion of the remarks by the distinguished Senator from Michigan [Mr. GRIFFIN], the distinguished Senator from Nebraska [Mr. HRUSKA] be recognized for up to 1 hour, and that at the conclusion of his remarks, the time limitation under the unanimous-consent agreement begin.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. The reason for this request is that the Senator from Nebraska had intended to make a rather lengthy presentation this afternoon, but because of developments he was unable to do so.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MANSFIELD. I yield.

Mr. JAVITS. I have not objected, and I do not intend to object. I have one little problem. I have a rather important bill to submit on Thursday. I would like 20 minutes for this purpose on Thursday, and perhaps the majority leader could bring the Senate in a little earlier and give me 20 minutes.

Mr. MANSFIELD. I had the Senator in mind for 45 minutes. I understood that it would be at any time that day, and I was hoping that it would be after the votes on title IV were concluded.

Mr. President, I ask unanimous consent that on Thursday that there be an additional 20 minutes on each amendment or substitute on which all time was consumed on Wednesday, and that the time be equally divided between the sponsor of the amendment and the manager of the bill or whomever he may designate, except that in the case of the Hruska amendment, the time will be controlled by the distinguished Senator from Connecticut [Mr. DODD].

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Chair wishes to inquire of the Senator from Montana if all of the unanimous-consent requests dealt only with title IV of the pending bill?

Mr. MANSFIELD. They all dealt only with title IV of the pending bill. It is hoped that will dispose of title IV one way or the other.

The PRESIDING OFFICER. The Chair thanks the Senator from Montana.

Is there objection to the unanimous-consent request? The Chair hears none, and it is so ordered.

The unanimous-consent agreement, later reduced to writing, is as follows:

Ordered, That effective on Wednesday, May 15, 1968, immediately after the speech by the Senator from Nebraska [Mr. HRUSKA], further debate on amendments of title IV to S. 917, to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, be limited as follows: debate on the pending Hruska amendment (No. 708) be limited to 4 hours, to be equally divided and controlled by the Senator from Nebraska [Mr. HRUSKA] and the senior Senator from Connecticut [Mr. DODD] or whomsoever he shall designate; debate on the perfecting amendment to be proposed by the Senator from Massachusetts [Mr. KENNEDY] be limited to 3 hours; that debate on all other perfecting amendments be limited to 1 hour; and debate on the Dirksen substitute (No. 782) shall also be limited to 1 hour; and that the time on all of the amendments except the Hruska amendment shall be equally divided and controlled by the sponsor of the amendment and the manager of the bill [Mr. MCCLELLAN] or whomsoever he shall designate.

Provided further, That on Thursday during the further consideration of any amendments to title IV on which all debate was consumed on Wednesday, May 15, an additional 20 minutes shall be allowed on each such amendment to be equally divided and controlled by the Senators as designated above.

Ordered further, That it is the understanding of the Senate that voting on all amendments will not begin until Thursday, May 16.

ORDER FOR RECESS FROM TOMORROW, TO 9 A.M., THURSDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in recess until 9 a.m., Thursday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR JAVITS ON THURSDAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of all the votes on title IV, the distinguished senior Senator from New York [Mr. JAVITS] be recognized for not to exceed one-half hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

SEA-LEVEL CANAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1096, H.R. 15190.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (Calendar No. 1096, H.R. 15190) to amend sections 3 and 4 of the act approved September 22, 1964 (78 Stat. 990), providing for an investigation and study to determine a site for the construction of a sea-level canal connecting the Atlantic and Pacific Oceans.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, with an amendment, in line 6, after " 'December 1, 1970' " strike out the comma and "and (2) by striking out '$17,500,000' in section 4 and inserting in lieu thereof '$24,000,000'."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. MANSFIELD. Mr. President I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1112), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED LEGISLATION

H.R. 15190, would extend the time from December 1, 1969, to December 1, 1970, in which the Commission must complete its study and make its recommendations and would increase the amount authorized for the study from $17.5 to $24 million.

BACKGROUND

In 1964 after reviewing the commercial and strategic inadequacies of the Panama Canal, the members of this committee were convinced of the need for an investigation and study to determine the feasibility of, and the most suitable site for a second canal at sea level through Central America and recommended that a commission be established to conduct the study. Under the provisions of Public Law 88–609, on April 18, 1965, the President appointed members of the Atlantic-Pacific Interoceanic Canal Commission. This study commission is required by the terms of Public Law 90–244 to report its findings and recommendations to the President by December 1, 1969.

The Commission has under consideration four general routes on the American Isthmus: Route 8 along the Nicaragua-Costa Rica border; Routes 10 and 14, alinements in or near the Panama Canal Zone; Route 17, in the Darien region of Panama; and Route 25, in Colombia.

Unavoidable delays have slowed the Commission in the conduct of the investigation. First, agreements with Panama and Colombia to permit necessary onsite surveys were not concluded in time for these surveys to advance very far during the 1966 tropical dry season. In addition, the U.S. Atomic Energy Commission's plowshare program, which includes the nuclear cratering experiments necessary to determine the feasibility of nuclear excavation of the new canal, has fallen behind schedule.

Two successful experiments in this program have been conducted this year including the first nuclear row-charge detonation which produced a ditch-like crater. The prospects of the use of nuclear excavation in public works projects are now more encouraging but at least four more tests are necessary before the Commission can make a final determination of the feasibility of this technique for the excavation of a sea-level canal.

Although the Commission has made substantial progress in the studies of the various Panama routes, much work remains to be done in Colombia.

NEED FOR LEGISLATION

Under present law, the Commission is required to conclude its investigation and study of the various proposed routes in Central America for a new sea-level canal and report its findings by December 1, 1969. An extension of 1 year, until December 1, 1970, is required to complete the onsite surveys, the AEC's nuclear cratering experiments and the Commission report.

The Commission estimates that the cost of this investigation will exceed the $17.5 million now authorized under law and will total $24 million because of the delays encountered and the necessity to contract for services originally expected to be provided at no cost by the Department of Defense.

COMMITTEE AMENDMENT

In view of urgent congressional efforts to curtail Federal spending and to reduce the budget deficit while maintaining our defense commitments throughout the world, this committee does not favor an additional authorization of $6.5 million at this time and, therefore, has deleted the authorization increase from the bill.

The amendment is as follows:

On page 1, strike out the comma at the end of line 6, strike all of line 7, and all of line 8, up to but not including the period.

COST

The enactment of this legislation will not entail additional cost to the U.S. Government.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill (H.R. 15190) was read the third time and passed.

AMENDMENT OF THE INTERSTATE COMMERCE ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1101, S. 758.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (Calendar No. 1101, S. 758) to amend the Interstate Commerce Act to enable the Interstate Commerce Commission to utilize its employees more effectively and to improve administrative efficiency.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, with an amendment, to strike out all after the enacting clause and insert:

That section 17(2) of the Interstate Commerce Act (49 U.S.C. 17(2)) is amended—

by inserting immediately after the second sentence therein the following: "The Commission may also refer to individual qualified employees for decision those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. In cases where such matters are assigned to individual employees of the Commission, any order or requirement of such individual employee shall be subject to the same provisions with respect to reargument and reconsideration, with respect to reversal or modification, with respect to stay or postponement pending disposition of the matter by the Commission or appellate division, and with respect to suits to enforce, enjoin, suspend, or set aside such order or requirement in whole or in part, as are contained in paragraphs (6), (7), (8), and (9) of this section with respect to orders or requirements of a board."

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 1117), explaining the purposes of the bill.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

SUMMARY OF PROPOSED LEGISLATION

S. 758 would permit the Interstate Commerce Commission to refer to individual qualified employees for decision those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The bill specifically provides for a right of appeal from these individual employee decisions to the Commission and the courts.

PURPOSE OF PROPOSED LEGISLATION

The proposed legislation would allow individual qualified Commission employees to process administrative matters, that is those matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits. The items to be delegated to individual qualified employees would include: (1) processing requests from carriers for extensions of time for filing their annual or other financial and statistical reports with the Commission; (2) rejection of tariff publications for failure to give lawful notice to the public or for failure to comply with the Commission's tariff publishing requirements; (3) approval of special permission applications by carriers for authority to deviate from the re-

quirements of the Commission's tariff publishing rules in appropriate circumstances; (4) various requests by carriers dealing with the Commission's accounting procedures and regulations, including and not limited to: (a) authority to permit the use of prescribed accounts which by provisions of our accounting rules require special authority; (b) authority to permit departures from general rules prescribing uniform systems of accounts; (c) authority to prescribe by order, rates of depreciation to be used by individual carriers by railroad, water, and pipeline; (d) authority to issue special authorizations permitted by the prescribed regulations governing the destruction of records of carriers; (5) valuation of pipelines; (6) extensions of time for the filing of pleadings in formal cases, assigning cases for hearings, and postponing compliance dates.

GENERAL DISCUSSION

In addition to the large volume of formal cases disposed of each year, the Interstate Commerce Commission's responsibilities under the act extend to numerous matters of an essentially routine and specialized nature. An example of these responsibilities is the processing of requests from carriers for extension of time for filing their annual or other financial and statistical reports with the Commission. (In the appendix to this report, other examples of such items are set forth). The Commission estimates that these routine or technical items that are essentially minor in nature total some 10,000 items annually.

Under the provisions of section 17(2) of the Interstate Commerce Act, the Commission may delegate functions only to a division of the Commission, a single commissioner, or three-member employee boards, all members of which boards must be "examiners, directors or assistant directors of bureaus, chiefs of sections, and attorneys." Section 17 has not been changed since the Transportation Act of 1940, except for an amendment approved September 14, 1961 (Public Law 87-247) to authorize employee boards to perform functions of the same character as those performed by duly designated divisions of the Commission.

Enactment of the proposed legislation would enable the Commission to refer to qualified employees routine or technical items requiring the attention of specialists. Depending on the nature of the technical matter, qualified employees of the Commission who would be eligible for such referral could include accountants, transportation economists, and other specialists. This proposed legislation would not only relieve Commissioners of the necessity of handling these numerous routine and specialized matters, but also would enable their more expeditious processing by employee experts in the agency.

COMMITTEE AMENDMENT

The Chairman of the Interstate Commerce Commission testified that the Commission did not intend to delegate to individual qualified employees any matter which would require an employee to decide the merits of a formal proceeding or any part of such a proceeding. The committee amendment specifically limits the individual delegation to matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

The Chairman of the Commission also testified that the Commission does not intend by the language of the bill to affect the right of any party to appeal a decision by an individual employee on a matter delegated to him for decision. At the present time matters delegated to an employee board are fully appealable, either by way of petition or letter of request. The Chairman further testified should the committee believe that this matter requires clarification that the Commission would have no objection to the inclusion of an amendment such as that added by the committee to S. 1148, a similar bill considered in the 89th Congress, which was passed by the Senate on July 20, 1965.

In its Report No. 461, 89th Congress, 1st session, to accompany S. 1148, the committee explained its decision to add an amendment to specifically preserve the right of appeal from any employee action. The committee continues to be of the opinion that the language of the bill should make it absolutely clear that a party shall have the right of appeal from any order or requirement of an individual Commission employee.

Subsection (2) of S. 758 as originally proposed would have expanded the present list of "eligible" employees, set forth in section 17(2) of the act, to include assistant chiefs of sections, chiefs and assistant chiefs of branches, accountants, transportation economists and specialists, and other qualified persons designated by the Commission.

Witnesses at the hearing noted that subsection (2) of S. 758 as originally proposed would have authorized the Commission to appoint to three-member employee board individuals, such as economists or cost analysts, who are not presently permitted to serve on such boards unless they are also members of the classes of employees presently specified in section 17(2), that, is directors or assistant directors of bureaus or chiefs of sections.

The Chairman of the Commission advised the committee by letter dated March 28, 1968, that it was not the intent of the Commission in proposing S. 758 to expand the present list of employees eligible to serve on employee boards, but rather, to simply permit certain delegations of authority to individual employees.

The committee amendment deletes subsection (2) of S. 758 as originally proposed to make clear that the list of employees eligible to serve on employee boards is not to be expanded, however, this deletion is not intended to limit those presently eligible serve on employee boards or to limit the list of "qualified employees" who may receive an individual delegation. The committee intends by the words "qualified employees" to mean such personnel, including accountants, transportation economists and specialists, as the Commission may designate to receive an individual delegation of matters which have not involved the taking of testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Without objection, the committee amendment is agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and was passed.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the increase of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. TYDINGS. Mr. President, I rise to speak in opposition to amendment No. 708 which has been offered by the distinguished Senator from Nebraska and others.

Before doing so, however, I would like to emphasize that the proponents of this amendment agree in many significant respects with those of us who are supporting enactment of title IV as reported by the Senate Judiciary Committee. This has not always been the case. We have watched efforts to enact significant additional Federal controls of traffic in firearms beginning at least as early as 1961, with bills and hearings and committee considerations virtually every year since then. During the early years of this struggle many Senators questioned the wisdom or necessity of having any additional controls. But now I think almost all Senators are agreed that the terrible abuse and slaughter caused by virtually unrestricted access to firearms by all individuals, regardless of their backgrounds, requires Congress to act.

The horrible and stark figures of death and destruction caused by misuse of firearms cannot be explained away by rhetoric. Each year some 19,000 persons in the United States die from gunshot wounds. Each year we experience some 43,000 aggravated assaults by use of firearms, and some 50,000 robberies where firearms are the main instrument of force. Guns claim on the average of 50 lives a day, or one every half hour. Nineteen out of every 20 police officers slain each year are killed by firearms. Since 1900 over 750,000 people have died in the United States by firearms misuse—which is five times the number of Union forces lost in the Civil War, 14 times the number of Americans lost in World War I, nearly three times the number of Americans lost in World War II, and half again as many deaths as we have suffered in all our wars throughout the history for our Nation.

Enactment of either title IV will not eliminate all of this slaughter. But it will make it possible for State governments to effectively implement laws of their own enactment which can substantially reduce this tragic toll. Within the context of Federal control of traffic in firearms, States and localities can move effectively to keep these lethal weapons out of the hands of criminals, drug addicts, mentally disordered persons, juveniles, and other persons whose possession of them is too high a price in danger to us all to allow.

And so I am greatly encouraged that this year the issue of gun control is not being left in subcommittee and is not being left in committee, but it is now out on the floor of the Senate for exposure, illumination, debate, and for the visibility of all citizens of the United States and hopefully for final enactment. And I am gratified that those who oppose the provisions of title IV do not do so on the head-in-the-sand basis that no controls are needed. The advocates of amendment No. 708 agree with the sponsors of title IV on these critical points:

First, that Federal action is imperative to help stem the virtually uncontrolled flow of firearms to persons in this country;

Second, that the appropriate role of the Federal Government in this area is to assist State and local law-enforcement authorities in making State and local controls and laws more effective so as to protect their people; and

Third, that stringent prohibitions are necessary to keep dangerous devices out of the hands of dangerous people.

These are the broad objectives on which we all agree, or, at least, hopefully so. These are certainly the broad demands whose necessity is so well documented by the comprehensive, thorough and enlightening hearings conducted by the Committee To Investigate Juvenile Delinquency under the chairmanship of Senator DODD. These common grounds for agreement are so compelling that I think all of us must conclude that the issue before us is not whether to enact an effective law to control gun traffic, but rather which such law would be most effective.

That is the issue presented before the Senate by the amendment of the Senator from Nebraska and by the perfecting amendments to be offered by the senior Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. DODD], the junior Senator from Massachusetts [Mr. BROOKE], and the senior Senator from New York [Mr. JAVITS].

We are confronted with two broad approaches to this problem. Each contains numerous restrictions on shipments of handguns and other firearms in commerce, many of which are already contained in the existing provisions of the Federal Firearms Act.

In addition to those provisions, title IV proceeds on the premise that the most effective way to place gun control within the reach of the State and local authorities is to channel sales of firearms through local sources, and, in title IV, to handguns, through local gun dealers, through local hardware stores, and through local licensees.

Two key provisions in title IV, therefore, are: First, a prohibition on the sale of handguns—that is, pistols and revolvers—to residents of other States; and second, a prohibition on shipments in commerce of handguns by licensed dealers to unlicensed persons in other States—in other words, a prohibition against the mail-order sale of handguns. The effect of these provisions will be to require an individual who desires to purchase a pistol or a revolver to make his purchase from or through a dealer in his own State; and if he desires to purchase a weapon through the mail, he must go to his own dealer, a licensee, a licensed dealer, and have that dealer order the gun through the mail. And if he desires to purchase a weapon over the counter, he will have to do so locally.

Now, why make these requirements so stringent, if indeed they are stringent? The answer is that if these purchases are channeled through local dealers, then State and local enforcement officers can easily police the sale of these weapons because they are done through local dealers and local persons known to the local authorities.

Most States which have enacted control on firearms require dealers within their jurisdiction to be licensed under State law. The outlets are known. Records are kept. And there would be no great difficulty in enforcing the local law.

However, amendment No. 708—the amendment offered by the distinguished Senator from Nebraska—proceeds on a somewhat different basis with respect to handguns. Amendment No. 708 does not prohibit the out-of-State sale of a handgun, but conditions that sale on the filing of an affidavit with the law enforcement official of the place of residence of the out-of-State purchaser.

Thus, both bills recognize at least the significant problem of controlling traffic in handguns by persons going out of their State to acquire them. However, they differ to a high degree in the matter of method, and I will discuss that subject a little later in my remarks.

Mr. President, the second major premise of title IV is that insofar as the provisions of Federal law are concerned, the appropriate place to put primary responsibility for enforcement is not with State and local officials, but rather with Federal licensees who are best situated to enforce the control. For this reason, title IV greatly tightens up the qualifications of a Federal licensee over existing law and over what is contained in amendment No. 708. And the most important responsibilities of those licensees must be undertaken with the sanction not only of a loss of license, but also criminal penalties for willful violation.

The point I wish to make now, Mr. President, is that under existing Federal firearms provisions, it is possible to be a licensee in a State, a Federal licensee, for the sale of firearms, for a $1 fee, with minimal restrictions, no criminal sanctions, and it is very easy to circumvent the law.

The structure of title IV is not unlike the responsibilities we place on pharmacists who dispense dangerous and narcotic drugs. Surely lethal firearms are no less dangerous, and persons engaging in that business should be under no less of a responsibility.

Amendment No. 708, on the other hand, proceeds on the premise that no Federal law should be "inconvenient" to persons desiring to purchase firearms. Moreover, it assumes that we should not place any particular responsibility with Federal licensees, who should serve primarily as conduits in the sale of firearms. Rather, the primary burden, to enforce both Federal prohibitions on, for example, shipments to convicted criminals, as well as to enforce State and local law is placed on State and local law enforcement officials. And the form which this takes is the so-called affidavit waiting period procedure required for sales over the counter of handguns to nonresidents, and mail-order shipments of handguns to nonresidents.

So our choice is between a bill premised on a technique of channeling traffic to local sources to be enforced primarily by Federal licensees, on the one hand, and on the other hand, a bill predicated on the affidavit procedure with primary enforcement responsibility placed on State and local police.

The heart of amendment No. 708, therefore, is in the affidavit waiting period procedure. With minor exceptions, this is virtually the only significant addition to existing law contained in amendment No. 708. I will examine the other provisions of that amendment in due course, but I think it is only fair to say that judging it on its merits, it must stand or fall with the effectiveness of this affidavit procedure.

As written in the amendment, the procedure appears to be simple enough. Any person desiring to purchase a handgun by mail order, or out of State over the counter, must submit a sworn statement reciting that he is over 21 years of age, and not prohibited by State, local, or Federal law from receiving the handgun. The sworn statement is then to be forwarded by the dealer to the appropriate local law-enforcement official of the applicant's residence. Who that happens to be and how the dealer is supposed to find out is not spelled out in the bill. Seven days after confirmation of receipt by local officials, the sale may be completed.

But this procedure, simple on paper, is not likely to be very effective. It is not likely to be effective in those cases where it is actually complied with. But in the context of the provisions of amendment No. 708, this affidavit procedure will not even apply in the great majority of handgun sales or I miss my bet.

For the moment, let us assume that the procedure is being complied with. How effective will it be? First, let us look at this from the point of view of the police official who receives the sworn statement. And let us assume that there is a local ordinance prohibiting receipt of possession of firearms by any person who has a criminal record, is a drug addict, an alcoholic, a juvenile, or is mentally unstable. Many States do have such laws, despite the NRA. What is that local police department to do with this sworn statement? All that appears that is of any help to them is the name of the applicant. In the form contained in the statute, there is not even a requirement that the applicant give his home address. Nor is there any other form of identification contained in the statement. There is no notarization or witness of the signature. There are no fingerprints. There is no photograph. So the first task of local law enforcement would have to be to determine whether the person whose name appears on the statement was in fact the person who signed it. And how is this to be done? I take it, that unless it is a very small community, where the law enforcement officials know the residents personally, it will be necessary to track down the applicant and verify the signature. This alone is no small task. I submit that in Fairfax County, Arlington County, Montgomery County, and Prince Georges County it would be no small task, particularly with no address attached.

But even assuming that the signature is valid, or that the local police are willing to make that assumption, what else must they do? They would have to check their own records to determine if the individual had a criminal record. But the individual may well not have lived in that locality all of his life, and we recognize we have a transient society, and so it would be necessary to check State records, and records from other States, as well as national crime data. But the act also prohibits shipments to persons under indictment for certain offenses, so

court records would have to be checked to determine whether the individual was under indictment. Hospital records would have to be checked to determine whether the individual had a drug addiction problem, or an alcoholic or mental problem. But there is no central filing of hospital records, at least not in most jurisdictions, and certainly not nationally. And all of these checks would have to be conducted within 7 days, or else the transaction will already have been completed. It automatically goes through 7 days after the letter has been received from the local law enforcement official.

Now I suggest that very few police departments are equipped to make a search as thorough as this and I suggest further, that many departments will simply file these papers away. Certainly those departments which do not now have a State or local law on the subject will be disinclined to want to do the research in order to enforce Federal prohibitions on sales to convicted or indicted persons, or fugitives from justice.

But even if the police are able to conduct a thorough investigation within the short time permitted, and do correspond with the dealer and advise the dealer that the particular individual is ineligible under State or local law to make that purchase, nothing in amendment No. 708 would prohibit that dealer or that individual from completing the transaction over the counter.

Title IV prohibits sales to persons not authorized to receive or possess handguns or other firearms in the State or locality of their residence; there is no such provision in amendment No. 708. The only requirement the dealer is under in amendment No. 708 is to receive the affidavit in the form requested.

Now it is possible to draft an affidavit procedure that is effective. But this would require the individual to obtain in advance from local officials a valid certification to his right to receive and possess the firearm. Such an affidavit procedure is contained in title IV, for purposes of restricting traffic in dangerous devices. Essentially this procedure is required under the law of several States which require an advance permit to purchase a firearm.

Under this procedure, the burden of investigation is on the individual who desires the weapon, who would have to satisfy local officials of his eligibility. But amendment No. 708 proceeds on the premise that the purchaser should not be inconvenienced, and so it places a heavy burden on local officials, who in many respects simply are not equipped to handle the matter effectively, and who are given almost no assistance by dealers and purchasers. Title IV would place primary responsibility on the dealer in these situations. The dealer simply could not ship a handgun to an unlicensed nonresident, so that there would be no difficulty of identification through the mail. And in over-the-counter situations, the dealer sees the individual face to face. Questions of the individual's identification would be handled much in the way a merchant now requires identification for purposes of cashing an individual's check. And dealers are under considerable incentive not to be careless, or close their eyes to persons whose identification simply is inadequate. And because the transaction must be consummated within the State of residence of the individual, and because his name, address, age, and other information must be recorded by the dealer, whose records are available for inspection by Treasury officials as well as State and local officials, it is very unlikely, under title IV, that an unauthorized individual could successfully purchase a handgun over the counter.

Now another difficulty with the affidavit procedure in amendment No. 708, even when it is complied with, is that the same language is apparently required whether the sale of the handgun is by mail order, or by purchase over the counter. Yet, the language contained in the affidavit, appropriate for mail-order shipments, is at best ambiguous in over-the-counter transactions, and perhaps essentially meaningless. For example, the affidavit requires the individual to state that his "receipt" of this handgun will not be in violation of any statute of the State and published ordinance applicable to the locality in which he resides. Now if this is construed literally, as I think any criminal provision must be, it does not mean very much in over-the-counter sales to nonresidents. Take the case of a citizen of Massachusetts who, let us assume, is not authorized under State or local law to purchase or possess a handgun. So he goes up to the State of Maine—or "down Maine" to be precise—to make such a purchase. Now it is abundantly clear that his receipt of a handgun—or anything else for that matter—in Maine cannot be a violation of Massachusetts law. Massachusetts cannot regulate the conduct of individuals who are not within its jurisdiction. So a statement that this individual's receipt of the handgun would not be in violation of Massachusetts law merely states what is inevitably true for transactions which take place outside of Massachusetts.

Now another provision in the affidavit states that the individual is "not prohibited by the Federal Firearms Act from receiving a handgun in interstate or foreign commerce." Now this would apply to persons indicted or convicted of certain offenses, or who are fugitives from justice. But a purchase over the counter may not be "receipt in interstate or foreign commerce." Moreover, amendment No. 708 contains no provision similar to section 921(c) of title IV which prohibits a federally licensed dealer from selling a firearm to a convicted or indicted felon, or fugitive from justice. So again, in over-the-counter transactions, the language of this sworn statement simply does not mean what at first blush it appears to mean.

Finally, the affidavit speaks in terms of "the law enforcement officer of the locality to which the handgun will be shipped," rather than the locality of the purchaser's residence. It is not at all clear what the implications of that provision are in the context of an over-the-counter purchase.

So even when the affidavit procedure is complied with, it is by no means an effective or efficient method of controlling traffic in handguns. But perhaps the greatest difficulty with amendment No. 708 is that in numerous situations the procedure simply is inapplicable. In other words, the amendment is riddled with holes so obvious and so gaping that persons as imaginative as those who generally desire these weapons could not help succeeding in obtaining them. I am going to demonstrate this by posing a number of situations which are by no means farfetched, to demonstrate how easy it would be if one had a mind to purchase a handgun out of State, or sell handguns to nonresidents, without complying with the affidavit procedure.

Example 1: The affidavit procedure is only required for sales to unlicensed persons. It can be easily circumvented, therefore, by the simple expedient of taking out a dealer's license. Under amendment No. 708 there is no requirement that a licensee intend to engage in the business of dealing in firearms, or that he have business premises for that purpose, or that he satisfy the Secretary that he intended to engage in such a business lawfully. The license fee is only $10. Issuance of the license, as long as the individual complies with four rather simple qualifications, is mandatory. Now we know from experience under existing Federal Firearms Act licensing that this technique is well-known to the trade, and is engaged in on a large scale already. There are issued annually in this country over 100,000 dealers' licenses under the Federal Firearms Act. The Treasury estimates that at least one in four—or over 25,000—of these licenses are held by persons who desire to evade the provisions of section 902(c) of the present Federal Firearms Act.

One of the things we are trying to do in title IV is to plug some of those holes. The amendment of the Senator from Nebraska would do nothing. It would keep those loopholes as wide as they are today.

This provision prohibits a licensee from shipping or transporting a firearm in commerce to any unlicensed person in a State which requires a license for the purchase of that firearm, unless the State license to purchase is exhibited to the dealer by the purchaser. There are some eight or nine States which have such a requirement. So residents of those States frequently purchase a Federal dealer's license, for $1 a year, to avoid having to submit a State permit. And some of the mail-order houses which have received orders from persons residing in those States who have not attached the license, simply return the order with the advice that the purchaser take out a Federal dealer's license to avoid the necessity of complying with State law. Now amendment No. 708 makes some improvements in the licensing requirements of existing law, but certainly nothing of any consequence. Amendment No. 708 increases the dealer's license fee, but $10 is not likely to inhibit this practice. So this is the first method to evade the affidavit procedure—simply take out a Federal license. This way a person can avoid the State law, and avoid complying with the Federal affidavit procedure as well.

Example 2: The affidavit requirement applies only to sales by federally licensed dealers and manufacturers. So another

easy method of avoiding trouble in the purchase of a handgun is to buy it from a private source, which does not engage in the business so regularly as to need a license. Title IV, on the other hand, prohibits sales to nonresidents by any person, and not just Federal licensees.

Example 3: Not all manufacturers and dealers must be licensed under amendment No. 708. The amendment only requires a dealer or manufacturer to obtain a license in order to transport, ship, or receive any firearm in interstate or foreign commerce. It is clear that the amendment contemplates that some dealers and manufacturers will not require a license, because some provisions in the amendment refer to licensed manufacturers and licensed dealers—for example, section 902 (c), (l), (m)—while other provisions refer only to manufacturers or dealers without reference to their being licensed—for example, section 902(j). So my next example of easy evasion of the affidavit requirement is an enterprising firm which decides to do a massive over-the-counter business of selling handguns to nonresidents by simply establishing itself in the State where the handguns are manufactured. The firm purchases handguns from the factory, and therefore does not receive them in interstate commerce. And it does all of its sales over-the-counter, so that it is not shipping or transporting firearms in interstate or foreign commerce. Not needing a license, it is not subject to the affidavit-waiting period requirements of section 902(m).

Example 4: On the same premise, that a license is only needed for dealers who ship, transport, or receive in interstate commerce, I submit that most pawnbrokers would not be covered. This would be true despite the fact that in the definitional sections of amendment No. 708 a "dealer" is defined to include "any person who is a pawnbroker."

There is also a separate definitional section defining pawnbrokers as persons whose business occupation includes the "taking or receiving, by way of pledge or pawn, of any firearms as security for the repayment of money loaned thereon." Based on these provisions, one reading through the amendment for the first time would assume that pawnbrokers are covered by the critically important provisions of the affidavit-waiting period procedure. But, if a pawnbroker only receives secondhand weapons as security for the repayment of a loan and does not deal in new firearms, he is not transporting, shipping, or receiving a firearm in interstate or foreign commerce. Used weapons presumably will have come to rest in the hands of the borrower, and the transaction will be wholly intrastate. Such a pawnbroker would not need a Federal firearms license to conduct over-the-counter transactions in firearms. And, accordingly, he would not be a "licensed dealer" required to comply with the affidavit-waiting period procedure for his over-the-counter sales in handguns. Now, if this analysis is correct, and I believe it is, this is no small omission. Surely the great bulk of criminally irresponsible purchasers of pistols and revolvers buy their weapons secondhand, and many of them from pawn shops. We all have seen the virtual arsenals displayed in the windows of pawnshop dealers in all of the major cities of the country. To say that we have effectively regulated traffic in firearms when we will not have touched the great bulk of these pawnbroker operations is a complete and utter hypocrisy.

Example 5: Another significant source that does not need to obtain a license, and is therefore, not bound by the provisions of the affidavit waiting period procedure for the sale of handguns, are foreign firms. Under existing law, firms located outside of the borders of the United States are not required to obtain Federal manufacturer's or dealer's license, even if they do a significant mail-order business with U.S. citizens. The regulations issued by the Secretary of the Treasury under present law, in section 177.20 state:

> Licensing requirements under the Act are applicable to manufacturers, importers and dealers *within the United States, or any possession (except the Canal Zone) under its control or jurisdiction* . . .

Now amendment No. 708, insofar as concerns the provisions defining who must obtain a license, would reenact verbatim existing law. Under usual assumptions, this means that the Congress will be affirming the existing regulations under the law. So the next easy way to get around the affidavit waiting period procedure for handguns is for an enterprising outfit to establish itself in Canada, or Mexico, or West Germany, or wherever it appears easiest. The firm could then advertise in all of the journals and magazines in the United States that any person who desired to purchase a handgun by mail order but did not wish to comply with the affidavit waiting period procedure could do so by the simple expedient of ordering from the foreign firm. These firms would be required to obtain a license, to be sure, but under the Mutual Security Act, and not under the Federal Firearms Act. And nothing in the Mutual Security Act would prohibit a large scale mail-order business in handguns.

Example 6: My final example is a firm established across the Canadian or Mexican border conducting substantial over-the-counter sales of handguns to U.S. citizens. For example, Detroit has experienced substantial purchases of handguns by its residents in other States with no gun control laws. Surely these same persons could go a few miles north instead of east, west or south. And so long as the individual did not bring back more than three pistols or revolvers for resale there would be no Federal violation.

Now each of these six examples are typical transactions that occur daily throughout this country. I submit that any bill which is predicated on the assumption that an affidavit-waiting period procedure would somehow contribute to effective controls of firearms in this country, that that bill is virtually worthless unless the procedure is required in all of the situations which I have outlined. Instead of that, however, we have a situation where what in my judgment is a less effective control—namely, the affidavit procedure—is enacted, but that control is so easily avoided that Treasury officials and the Congress in the future will have to constantly shore it up to stop leakage.

In contrast, title IV is a simple, workable, effective means of channeling handgun traffic to local sources which can be easily policed by local officials. The affidavit procedure is cumbersome, and considerably less effective, even when it is applicable, and the provisions of amendment No. 708 do not really require it in numerous classes of great significance.

Now, there are many other difficulties in amendment No. 708 which I think we should consider. For example, how effective will amendment No. 708 be in keeping handguns and other firearms out of the hands of juveniles? This is a question on which the sponsors of amendment No. 708 apparently agree with those of us who support title IV. Implicit in both bills is the premise that the Federal Government has a responsibility to control the free traffic in firearms available to juveniles. But what does amendment No. 708 do about this problem? Essentially, it does only one thing: it prohibits a common or contract carrier from delivering in interstate commerce a handgun to a person whom the carrier knows or has reasonable cause to believe is under 21, or any firearm, including shotguns and rifles, to any person whom the carrier knows or has reasonable cause to believe is under 18. And to back that provision up, the amendment requires manufacturers or dealers who desire to ship handguns in commerce by common or contract carrier, to identify in writing the contents of any package containing a handgun.

First of all, there is an obvious discrepancy. The dealer must identify to the carrier the contents of a package containing a handgun, which the carrier must not deliver knowingly to a person under 21. But there is no provision requiring dealers to identify the contents of packages containing firearms other than handguns, such as rifles and shotguns. So it is highly unlikely that the provision restricting deliveries of other firearms to persons under 18 would be effectively enforced.

More important, if there is a Federal interest in controlling traffic of firearms to juveniles, why limit exercise of Federal authority to this rather cumbersome device of restricting deliveries by contract or common carriers? Why not take a direct approach, as does title IV, and prohibit the sale by a Federal licensee of a handgun to a person under 21 years of age? But under amendment No. 708, Federal licensees can sell over-the-counter to 2-year-olds, without violating the act. And even in the sale of a handgun to a nonresident, the dealer is under no obligation to determine the accuracy of claims of age made in the affidavit, if one is required, or even to refuse to sell to the nonresident juvenile knowing that the affidavit was false. In their zeal to relieve the dealer of any responsibility for enforcement of the Federal law, the proponents of amendment No. 708 have placed an awkward burden on common and contract carriers, and failed to take

even the most obvious steps to make effective the intended restriction on sales to juveniles.

Another area where the proponents of amendment No. 708 and supporters of title IV apparently agree is the desirability of some Federal controls over the flow of firearms to indicted or convicted criminals and fugitives from justice. Both bills carry over provisions already contained in the Federal Firearms Act. But whereas title IV effectively tightens up these provisions, amendment No. 708 dilutes them, and introduces some very confusing language.

As most of us are aware, amendment No. 708 is a revised version of S. 1843, which has been under consideration by the Judiciary Committee. S. 1843 limited the applicability of the sections restricting shipment, or receipt in commerce of firearms to criminals or indictees who had been convicted or indicted for so-called crimes of violence. And in S. 1843 there was a separate definitional section specifying which offenses would be deemed crimes of violence. In effect, S. 1843 was trying to return the coverage of the Federal Firearms Act to the pre-1961 provisions which had included only crimes of violence. In 1961, the Congress amended the Federal Firearms Act to include prohibitions on interstate shipment of firearms by persons indicted or convicted of any offense punishable by imprisonment for more than 1 year, with minor exceptions. But in converting S. 1843 to the present amendment No. 708, there was included neither the crime of violence standard, nor the "crime punishable by imprisonment for more than 1 year" standard, but a hodgepodge of both. In amendment No. 708 the term "indictment" is defined to include only indictments or informations under Federal or State law "under which a crime of violence may be prosecuted." Now, it is not clear any longer what is meant by the term "crime of violence" because the definition section of S. 1843 has beeen omitted in amendment No. 708. But more difficult than that is that sections 902 (d), (e), and (f), containing the operative prohibitions on indicted persons, do not talk in terms of indictment for crimes of violence, but, instead, refer to indictments for "a crime punishable by imprisonment for a term exceeding 1 year." I for one am not at all sure what is intended here. Does this mean that the crime of violence language in the definitional section does not apply? Does it mean that only crimes of violence which are also crimes punishable by imprisonment for a term exceeding 1 year are included? And if so, how are we to define crime of violence, since the definition of those crimes has been removed from the statute?

Rather strangely, a person indicted for a "crime of violence" may be subjected to a different standard than a person who has been convicted, because convictions are not defined in terms of "crimes of violence."

More confusing is the definition of "fugitive from justice." There can be no mistake what the definition is, for the term is defined as any person who has fled "from any State to avoid prosecution for a crime of violence or to avoid giving testimony in any criminal proceeding." But what does this mean?

First of all, it is a strange provision that says that a person who is fleeing prosecution from any State will only be deemed to be a fugitive from justice if the crime for which he would be prosecuted is a so-called crime of violence. But at the same time, this definition states that a mere witness who is seeking to avoid testifying is considered to be a "fugitive from justice" regardless of the type of criminal proceeding involved. Surely a person fleeing prosecution, for whatever offense, should be considered more dangerous than a person merely seeking to avoid testifying. But under the definitions contained in amendment No. 708 a witness is considered more dangerous than a defendant.

But this mingling of crimes of violence standards with felony standards has very significant implications for eligibility to obtain a dealer's license. One of the requirements of an applicant for a license under amendment No. 708 is that the applicant, or managing individual in the case of a corporation, not be "prohibited by the provisions of this act from transporting, shipping, selling, or receiving firearms in interstate or foreign commerce." The only persons blocked by this qualification from obtaining a license are those who come within the definition of convicted or indicted persons or fugitives from justice. Under these standards, narcotics offenders and gamblers, presumably not indicted for a "crime of violence," would not be covered and could obtain a Federal dealer's license to engage in the business of receiving and dealing in firearms.

Moreover, the prohibitions on shipping, transporting, or receiving firearms in commerce would not apply to persons indicted for violation of the Federal Firearms Act, which again is not a "crime of violence." Violations of the act are specifically made a ground for refusal of a license, but no similar provision applies to the other disabilities applicable to a person convicted or indicted for crime.

So again, in the case of restricting access to firearms by dangerous persons, just as with juveniles, amendment No. 708 fails to take the obvious and logical step which would do more than any other to curtail that access—and that is, to prohibit federally licensed dealers from selling to known criminals. Title IV makes this prohibition. Under amendment No. 708, a federally licensed dealer could sell to a known criminal or a known juvenile—or a known drug addict, or a known mentally disordered person—with impunity. And I might remind the Members at this point of the pawnbroker situation I described earlier. For it is obvious that many persons with criminal records purchase from pawnbrokers, and there are many occasions when the pawnbroker knows the criminal background of the client. Under amendment No. 708, many of these pawnbrokers will not be required to be licensed. They would not need to comply with the affidavit procedure. And even if they were licensed, there would be no prohibition on their selling firearms to known criminals. Under title IV, on the other hand, all of these pawnbrokers would be required to be licensed—because all dealers and manufacturers must be licensed whether or not they ship, receive, or transport in commerce—and all of them would be under direct Federal sanction not to sell firearms to known criminals. I ask you, which bill is likely to be more effective?

Now, the next major omission in amendment No. 708 is the failure to include any restriction of any kind on the importation of firearms. I submit to you, that no effective firearms act can omit dealing with the problem of imports. Under present law the only restrictions on importation of firearms are those contained in the Mutual Security Act of 1954. This act is administered by the Department of State, and deals exclusively with problems affecting our relationship with foreign nations. In no way was it designed to protect U.S. citizens from abuse or wholesale traffic in firearms. As the Director of the Office of Munitions Control indicated in his July 1967 testimony before the Juvenile Delinquency Subcommittee, the Department of State is guided by the Mutual Security Act's language which states that controls are authorized "in furtherance of world peace and the security and foreign policy of the United States." The only responsibility of the Department of State with respect to legitimate commercial imported firearms is to determine that they are initially consigned to bona fide wholesalers.

In the 5 years from 1962–67, some 3,364,634 rifles, pistols, and revolvers were brought into this country, not including .22-caliber weapons, and not including firearms imported through Canada. Most of these weapons are inexpensive, because they are cheaply constructed. They are as dangerous to the user as they are to those against whom they are used. They find their way in disproportionate numbers to illegal hands. For example, 80 percent of the weapons seized in Atlanta, Ga., for violation of State and local law were from an import source. At least 75 percent of the mail-order guns sold in the United States are imported. Imported "starter pistols"—designed for use in athletic contests—are easily converted to .22-caliber pistols. Attorney General Lynch of California testified before the Juvenile Delinquency Subcommittee that during the past 8 years, hundreds of felonies had been committed by youngsters armed with these weapons. Even Mr. Franklin Orth, executive vice president of the National Rifle Association, has noted the low quality of these imports, and the dangers inherent in them. But amendment No. 708 makes no effort to regulate importation of these weapons.

And, as I discussed previously, this failure to regulate imports along with domestic traffic in firearms, opens a gaping hole in restrictions on mail-order sales of handguns which would not need an affidavit or waiting period if they were shipped from outside the United States.

Moreover, failure to include imports invites persons in States bordering on foreign countries to simply cross over to Canada or Mexico, purchase the weapon over the counter, and bring it back. So long as they do not bring back in excess of three for resale, no provision in the Mutual Security Act would prohibit their reentry. Just as Federal controls are needed on interstate traffic to channel commerce in firearms to local dealers subject to local policing, so also it is necessary to control the traffic of firearms into the United States from foreign nations. The omission of coverage of this type from amendment No. 708 is in my judgment wholly unjustifiable. No one is saying that legitimate sporting weapons should not be imported—they are specifically exempted under title IV. But wholesale dumping of the war-surplus weaponry of foreign countries on the domestic civilian market in the United States must be stopped, and only legitimate hunting weapons and the other exceptions such as collectors items should be permitted to continue.

There are other problems with amendment No. 708. For example, the amendment attempts to deal with the problem of destructive devices by amendment of the National Firearms Act. But in the course of doing that the amendment defines "destructive device" so as specifically not to include "any shotgun or rifle." In testimony before the Juvenile Delinquency Subcommittee, Mr. Warren Page, president of the National Shooting Sports Foundation, pointed out that the exception for "rifles and shotguns" would permit exclusion from the National Firearms Act of Lahti tank guns, a Finnish tank gun which has been misused on frequent occasions, as well as battleship cannons or other devices of mass destruction designed like a rifle or shotgun. Senator HRUSKA, who was present at those hearings, is recorded as saying that it was true that the word "rifle" could be construed to include an antitank gun. He himself suggested that the word "sporting" be inserted before the word "rifle" so as to "cure that dilemma." But now we come to the actual provisions of amendment No. 708, and the exception for rifles remains in the bill, wholly unqualified.

These are just a few of the very serious deficiencies in amendment No. 708, which I hope each Senator will consider carefully before voting to adopt that amendment. To summarize, the amendment attempts to regulate interstate traffic in handguns by essentially only one new provision—the affidavit waiting period procedure. But that procedure is cumbersome, clumsy, and inefficient, and places an awkward burden on local law-enforcement officials solely in order to save dealers and purchasers of firearms any "inconvenience." But in addition to being ineffective, the affidavit waiting period procedure will be easily evaded in numerous classes of cases, which virtually insure the ineffectiveness of this act. I have tried to point out the situations in which and the reasons why the affidavit procedure would not apply: the ease with which persons can continue to take out Federal dealers licenses; the failure to require intrastate dealers, particularly pawnbrokers, to obtain licenses and become subject to the affidavit procedure; the failure to regulate imports, so that mail-order and over-the-counter sales by foreign firms will not be an easy avenue of avoidance of new requirements; the failure to draft the language of the affidavit in such a way as to be meaningful in over-the-counter transactions; the failure to prohibit sales by licensees to juveniles and known criminals; and the failure to effectively regulate destructive devices.

These are major omissions, and major deficiencies. Amendment No. 708 simply does not stand up to careful scrutiny. I urge the Senate not to adopt amendment No. 708, but instead to vote for the carefully drawn and effective provisions of title IV as reported out by the Senate Judiciary Committee. Surely the objections of those who oppose title IV go more to its form than to its content. Title IV, like amendment No. 708, seeks to carry out the Federal responsibility in making State gun control laws effective; seeks to assert Federal authority to try to stop the flow of firearms to known criminals and juveniles; seeks to channel the traffic in firearms in such a way that State and local officials can effectively enforce State and local law. Both title IV and amendment No. 708 seek these common objectives. But amendment No. 708 does so in what I consider to be a wholly ineffective manner, while title IV is a simple, workable, effective means of obtaining this very vital Federal legislation.

Mr. President, I ask unanimous consent that a memorandum entitled, "Re: Critical Analysis of Amendment No. 708 to S. 917," be included at the completion of my remarks.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM: RE: CRITICAL ANALYSIS OF AMENDMENT NO. 708 TO S. 917

COMPARISON OF AMENDMENT NO. 708 AND TITLE IV

The acknowledged objective of both Title IV and the substitute amendment, No. 708, is to permit state and local laws controlling the use and possession of firearms to be effectively enforced. The greatest obstacle to effective enforcement of these laws is the ready availability of firearms in other states with few or no controls, and interstate mail-order shipment of firearms.

To meet this problem Title IV adopts two principles:

1. *The most effective way to place gun control within the reach of state and local authorities is to channel that traffic through local sources.* Accordingly, under Title IV no person, whether or not a licensed dealer, may sell or transfer over-the-counter to an unlicensed nonresident any firearm other than a rifle or shotgun or any firearm which the transferee could not receive or possess under the law of his residence. Federal licensees are prohibited from shipping or transporting in commerce any firearm, other than rifles and shotguns, to unlicensed nonresidents, and any firearm whose receipt or possession by the transferee is prohibited by state or local law.

2. *Title IV places primary responsibility for enforcement of the federal law on federal licensees.* Federal licensees are under criminal sanction not to do any of the following:

Ship or transport in interstate commerce any firearm other than a rifle or shotgun to an unlicensed person.

Sell or deliver any firearm, other than a shotgun or rifle, to a nonresident or to a person under twenty-one years of age.

Sell or deliver any firearm, including a rifle or shotgun, to any person prohibited by the law of his residence from receiving or possessing the firearm, or to any person prohibited from receiving or possessing such a firearm at the place of sale or delivery, or to any convicted or indicted felon or fugitive from justice.

To make any false entry in records required to be kept, or to fail to keep required records.

The substitute amendment seeks to accomplish the shared objective by different means. Under the substitute amendment federal licensees are essentially only conduits in the sale of firearms, and are under few direct enforcement obligations. The *only* obligations of a federal licensee under the amendment are:

Not to ship or transport any firearm in interstate commerce to any person in any state which by state law or published local ordinance prohibits such person from receiving or possessing such firearm "unless the licensed manufacturer or licensed dealer establishes that he was unable to ascertain with reasonable effort that such receipt or possession would be in violation of such State law or such ordinance."

Not to deliver for shipment by a common or contract carrier a package containing a handgun without identifying in writing the contents.

Not to ship any handgun in interstate commerce to any unlicensed person, or to sell or deliver any handgun over-the-counter to a nonresident, without obtaining an affidavit from the purchaser stating that he is over twenty-one years of age, and not prohibited from receiving the handgun under state, local, or federal law. The licensee must forward the statement to appropriate local officials of the applicant's residence, and wait a period of seven days prior to completing the transaction.

Other than the "reasonable effort" to determine legality of shipments under state or local law, licensees under the substitute amendment are subject to no criminal penalties not already provided under existing law. The primary burden of enforcement of the interstate traffic in guns is placed on local law enforcement of the recipient's residence.

DEFICIENCIES IN AMENDMENT NO. 708

1. Deficiencies of the affidavit procedure

The principal provision contained in Amendment No. 708 which is not already contained in the Federal Firearms Act is the waiting period—affidavit procedure required for interstate shipments of handguns by licensees and over-the-counter sales of handguns by licensees to unlicensed nonresidents. This procedure is not likely to effectively prevent persons not entitled by the law of their residence to possess such weapons for the following reasons:

Local law enforcement will be greatly overburdened in having to verify the contents of each sworn statement. For example, to check a person's criminal record may require searching not only local but national files. Court records locally and elsewhere must be checked to determine if the individual is under indictment, legally incompetent, or otherwise ineligible.

Many state and local jurisdictions have no gun control regulations. Would local law enforcement in such places be under a duty to investigate to determine whether the proposed shipment is to a person prohibited from receiving it under *federal* law (e.g., a convicted or indicted felon)?

There is no requirement that the statement be notarized, or even witnessed. Nor is there any requirement for a photograph or fingerprints. Therefore, local law enforcement will also be required to determine the authenticity of the signature, presumably by direct contact with the purported applicant.

The federal licensee is apparently under no obligation not to complete an over-the-counter sale even if notified by local law enforcement of the applicant's residence that the applicant is ineligible to purchase. In mail-order situations a licensee is prohibited from shipping to a person ineligible to receive under state or local law (Section 2(c)); there is no parallel provision with respect to over-the-counter sales to nonresidents whose state or local law would prohibit receipt or possession of the firearm.

The provision only applies to handguns. A licensee may apparently sell any other firearm over-the-counter to any purchaser, regardless of age, known criminal background, or known ineligibility under state or local law.

The affidavit procedure and waiting period is only required for sales to unlicensed persons. Amendment No. 708, however, makes no significant qualification for applicants for dealer licenses. Any individual over twenty-one years of age who is not a felon and who has not violated the act is apparently eligible to receive such a license upon the payment of a $10 annual fee, whether or not he intends to engage *bona fide* in the business of selling firearms. Inasmuch as the Treasury Department estimates that some 25,000 dealer licenses are now held by persons not engaged in the business, this failure to increase the requirements for such a license creates a major avenue of evading even the limited affidavit-waiting period procedure.

Only licensees are required to comply with the affidavit-waiting period procedure in sales or shipments of handguns to nonresidents. Thus, *unlicensed* persons may sell at will any firearms to nonresidents, or ship them in commerce as long as they do not do this so regularly as to become dealers.

The affiant must state that his "receipt" of the handgun is not in violation of the law of his residence. This statement would be of little effect in over-the-counter transactions for the law of another state could not prohibit "receipt" of a firearm by its residents beyond its jurisdiction.

2. Control of sales to juveniles

Amendment No. 708 establishes very weak control of sales to juveniles. The only provisions affecting such sales are the requirements that nonresidents purchasing handguns by mail order or over-the-counter state in their sworn statement that they are over twenty-one years of age, and that common or contract carriers not deliver handguns to any person with knowledge or with reasonable cause to believe that such person is under 21 years of age, or any firearm to persons under 18—

Although there is a requirement that any manufacturer or dealer (apparently whether or not licensed) must notify the carrier in writing of the contents of a package containing any handgun, no similar provision applies to contents of a package containing "any firearm". Thus, the prohibition on delivery to persons under eighteen is unlikely to be effective.

Under the substitute amendment no licensee is prohibited from *selling* any firearm to any person regardless of age;

The affidavit provisions requiring a sworn statement that the purchaser is twenty-one years of age apply only to handguns;

Even where the affidavit is required, there is no prohibition on completing the sale even if the licensee knows or has reason to know the applicant is under twenty-one.

3. Sales and shipments to convicted or indicted felons and fugitives from justice

Both the substitute amendment and Title IV continue the prohibitions contained in the present Federal Firearms Act against an indicted or convicted felon or fugitive from justice shipping, transporting or receiving any firearm in commerce. The substitute amendment also continues the provision of the Federal Firearms Act prohibiting any person from shipping or transporting any firearm to any person knowing or having reasonable cause to believe that such person is under indictment or has been convicted of a felony or is a fugitive from justice. However, the substitute amendment is weaker than Title IV in several respects:

The substitute amendment is now very ambiguous with respect to coverage of convicted and indicted persons. Under its predecessor bill, S. 1843, the only criminals or indictees affected were those who had been convicted or indicted for a "crime of violence". "Crimes of violence" were specifically defined to include enumerated offenses. (Only "crimes of violence" had been included in the Federal Firearms Act prior to a 1961 amendment. In 1961 this coverage was expanded to include persons indicted or convicted of an offense punishable by imprisonment for more than one year.) The substitute amendment now defines "indictment" and "fugitive from justice" in terms of "crimes of violence". The definition of "crimes of violence," however, has been deleted. Moreover, all operative sections are in terms of crimes punishable by imprisonment for more than one year. Are "indictments" in the operative sections limited to "crimes of violence" so long as the crime of violence is punishable by imprisonment for more than one year? If so, narcotics offenders and gamblers, presumably not indicted for a "crime of violence" would not be covered. Nor would persons indicted for violation of federal firearms laws.

The definition of "fugitive from justice," although less ambiguous, appears to be anomalous. On the one hand, persons who are *fleeing prosecution* from any state are only defined "fugitives from justice" if the crime for which they would be prosecuted is a so-called "crime of violence." On the other hand, a mere witness who is seeking to avoid testifying is considered a fugitive from justice regardless of the type of criminal proceeding involved. Surely a person fleeing prosecution, for whatever offense, should be considered more dangerous then a person merely seeking to avoid testifying.

The substitute amendment nowhere specifically prohibits a federal licensee from selling over-the-counter to a known criminal, as does Title IV. This omission could be particularly significant in the case of pawnbrokers who frequently know or have reason to know of the criminal background of some of their clients, but who under the substitute amendment may sell to such a person with impunity.

4. Deficiencies in licensing requirements

The most important provision in amendment No. 708 is the affidavit-waiting period requirement for shipments or sales of handguns to nonresidents. However, this requirements only applies to nonresidents who are not licensed. The ease by which a person may obtain a license is therefore a critical weakness of this aspect of the substitute amendment.

The only substantive requirements for such a license are: (1) that the applicant be at least twenty-one years of age; (2) that the applicant not be under indictment or be convicted for a crime of violence (or felony, depending on construction), or be a fugitive from justice; (3) that the applicant not have willfully violated any provisions of the Act or regulations, and (4) that the applicant not willfully fail to disclose any material fact in connection with his application. In contrast, Title IV requires, in addition to the requirements of the substitute amendment, that: (5) the applicant be likely to conduct business operations in a lawful manner during the term of the license; and (6) that the applicant have business premises for the conduct of business.

The substitute amendment seeks to sharply curtail any discretion in the issuance of the license by the Secretary. The issuance is mandatory, subject only to the qualifications noted. Under Title IV the issuance is discretionary, but denial is mandatory for failure to qualify as provided.

The substitute amendment does not require all dealers or manufacturers to be licensed. It only requires a license for a dealer or manufacturer to ship, transport or receive firearms in interstate commerce. Thus, it is possible that substantial firearms business could be conducted by a person with no federal license, *including over-the-counter sales of handguns or other firearms to nonresidents without complying with the affidavit procedure.* For example, a pawnbroker who deals only in second-hand firearms might not be required to obtain a license. Or a dealer could operate in one state by purchasing firearms, including handguns, directly from the manufacturer, and conduct a massive over-the-counter trade to neighboring state residents, without having to comply with the affidavit procedure.

The substitute amendment includes record keeping requirements, but they are considerably weaker than in Title IV. Each licensee is required to maintain records required by the Secretary, but there is no provision for criminal penalties for failure to do so. Title IV, on the other hand, puts the licensee under a strong obligation, with criminal sanctions, to maintain a specific record of the name, age, and place of residence of each purchaser of a firearm. Willful failure to maintain required records, or entry of false information thereon, also are violations of Title IV.

The substitute amendment fails to make clear that records kept by dealers must be available for inspection by the Secretary. Title IV also authorizes the Secretary to cooperate with state and local law enforcement officials by disclosing the contents of these records.

Compared to Title IV amendment No. 708 provides for substantially reduced fees for manufacturers and importers ($50 instead of $500) and for pawnbrokers ($50 rather than $250).

5. Omission of restrictions on imports

One of the serious omissions of the substitute amendment is any control over imported firearms. Title IV prohibits importation of arms which the Secretary determines are not suitable for research, sport or as museum pieces. There can be no justification for continued wholesale dumping of war surplus merchandise on the American civilian market. The existing controls of the Mutual Security Act of 1954 are inadequate. That Act, administered by the State Department, relates to relations with foreign nations, and is not designed to protect citizens domestically. Under the substitute amendment firms in Canada or Mexico, licensed under the liberal provisions of the Mutual Security Act, could ship into the U.S. or sell to U.S. residents most firearms, including handguns, without even complying with the affidavit procedure.

6. Additional defects in amendment No. 708

Narrower definition of firearms: Title IV defines the term "firearm" broadly, and then makes exception in certain portions of its coverage for rifles and shotguns, which are specifically defined. The substitute amendment defines "firearm" more narrowly by

omitting specific reference to starter guns, mufflers and silencers, and by eliminating all weapons manufactured before the year 1898, and by permitting exceptions to the definition "when the context otherwise requires". The substitute amendment then makes its new provisions—essentially the affidavit procedure for interstate sales and shipments—applicable only to "handguns" which are narrowly defined in terms of their "original design". Thus, questions of definition of coverage will be construed in favor of coverage in Title IV, but against coverage in Amendment No. 708.

Receiving stolen firearms: The substitute amendment repeats the confusing language of existing law relating to receiving and concealing stolen firearms. Under this language the firearms must not only move in or be a part of interstate commerce, but must have been stolen while so moving in or constituting a part of commerce. Title IV makes no qualification on when the firearm was stolen. Thus, if a non-commercial arsenal were robbed, under the substitute amendment it would not be a federal offense to knowingly receive those weapons in commerce.

Obliterated serial number: The substitute amendment repeats the confusing language of existing law making it unlawful for any person to "transport, ship, or knowingly receive" in commerce a firearm from which the manufacturer's serial number has been removed, obliterated, or altered. Title IV makes it clear that the word "knowingly" modifies all of the prohibited acts, and not just the act of receiving.

The substitute amendment fails to broaden the power to seize firearms for all violations of federal criminal law, as continued in Title IV, and limits seizure to violations only of the Federal Firearms Act.

Mr. TYDINGS. Mr. President, I yield the floor.

Mr. DODD. Mr. President, this is a high point in the afternoon. At least, at long last, we are going to get to the gun bill. I would have preferred that it be taken up in order in the general bill, only because I think, since it is the fourth title, it should have come up that way. But the parliamentary situation does not permit that. Anyway, it has been a long fight since 1961, and I am grateful to all those who have joined me in it.

AMENDMENT NO. 788

Mr. TYDINGS. Mr. President, will the Senator yield?

Mr. DODD. I yield.

Mr. TYDINGS. Mr. President, I send to the desk an amendment to S. 917, and ask that it be printed.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table.

ADDITIONAL LEGAL SCHOLARS CONDEMN TITLE II OF CRIME BILL, S. 917

Mr. TYDINGS. Mr. President, on April 19, I wrote to law schools across the country calling attention to the provisions of title II of the proposed omnibus crime bill, S. 917, which is now pending before the Senate. In my letter, I asked for views regarding the wisdom and the constitutionality of the provisions of title II.

To this date, I have received responses from 43 law schools, signed by 212 legal scholars, including 24 law school deans. All of these letters express a unanimous opinion that title II should not be enacted into law.

The law schools from which I have received replies are as follows:

University of Arizona College of Law, Tucson, Ariz.

Boston College Law School, Brighton, Mass.

University of California School of Law at Davis, Calif.

University of California School of Law at Los Angeles, Calif.

California Western University School of Law, San Diego, Calif.

Chase College School of Law, Cincinnati, Ohio.

University of Chicago School of Law, Chicago, Ill.

University of Cincinnati College of Law, Cincinnati, Ohio.

University of Connecticut School of Law, West Hartford, Conn.

University of Detroit School of Law, Detroit, Mich.

Duke University School of Law, Durham, N.C.

Emory University School of Law, Atlanta, Ga.

Georgetown University Law Center, Washington, D.C.

George Washington University National Law Center, Washington, D.C.

Gonzaga University School of Law, Spokane, Wash.

Harvard University Law School, Cambridge, Mass.

Indiana University School of Law, Bloomington, Ind.

University of Kansas School of Law, Lawrence, Kans.

University of Louisville School of Law, Louisville, Ky.

Loyola University School of Law, Los Angeles, Calif.

University of Maine School of Law, Portland, Maine.

University of Maryland School of Law, Baltimore, Md.

University of Michigan School of Law, Ann Arbor, Mich.

University of Missouri School of Law, Columbia, Mo.

University of Missouri School of Law, Kansas City, Mo.

University of New Mexico School of Law, Albuquerque, N. Mex.

University of North Dakota School of Law, Grand Forks, N. Dak.

University of North Carolina School of Law, Chapel Hill, N.C.

Northeastern University School of Law, Boston, Mass.

Notre Dame Law School, Notre Dame, Ind.

University of Oklahoma College of Law, Norman, Okla.

University of Oregon School of Law, Eugene, Oreg.

University of Pennsylvania School of Law, Philadelphia, Pa.

Rutgers, The State University, School of Law, Camden, N.J.

University of South Dakota School of Law, Vermillion, S. Dak.

Southern University Law School, Baton Rouge, La.

Stanford University School of Law, Stanford, Calif.

University of Tennessee School of Law, Knoxville, Tenn.

University of Tulsa College of Law, Tulsa, Okla.

University of Utah College of Law, Salt Lake City, Utah.

University of Virginia School of Law, Charlottesville, Va.

West Virginia University College of Law, Morgantown, W. Va.

Yale University School of Law, New Haven, Conn.

I have previously read into the RECORD letters from 38 law schools. These letters appear in the RECORDS of Monday, April 29, at page 10888; Wednesday, May 1, at page 11235; Friday, May 3, at page 11747; and Monday, May 6, at page 11898. I now ask unanimous consent that there be printed at this point in the RECORD letters which I have received from the University of Arizona College of Law, the University of Connecticut School of Law, the University of Detroit School of Law, the University of Louisville School of Law, and Notre Dame Law School.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF ARIZONA,
Tucson, Ariz., May 6, 1968.

Senator JOSEPH D. TYDINGS,
U.S. Senate, Committee on the Judiciary, Washington, D.C.

DEAR SENATOR TYDINGS: I have read with interest, and I may say astonishment, Title II of the Omnibus Crime Control and Safe Streets bill. Passing the question of the power of the Congress to overrule the Supreme Court's decisions in *Miranda* and *Wade*, I should like to direct my comments to the proposed reduction of the Court's appellate jurisdiction in certain aspects of criminal cases and abolishing federal habeas corpus jurisdiction over all state criminal convictions.

As a student of the criminal process, as one who has served as a prosecutor as well as defense counsel, I can only say that I regard these proposals as the most dangerous to have grown out of our current concern for the criminal process. I respectfully suggest that these sections of the statute bespeak a misdirection of the Senators' concern over the state of criminal procedure. The fact is that the states have long ignored the necessity to revise and modernize their procedures in order to accomplish their objectives of social control with efficiency, fairness but a due regard for individual rights. As a result, the Supreme Court and lower federal courts have been compelled to exercise their long standing power to enforce the Constitution. The result has been considerable friction and restiveness under the pressure of federal court decisions but the solution is the improvement of statute procedure not the dismantling of the federal courts' power to protect individuals from injustice and unconstitutional treatment.

For example, few states in this nation have any post-conviction procedures worthy of the name. To resolve that problem by making it impossible for one who has been aggrieved to vindicate his right in federal court seems unwise in the extreme.

The practicing profession and the law schools are only now beginning to awaken to their responsibility to modernize our criminal process. If this responsibility is discharged in reasonable fashion, there will be little necessity for the federal courts to exercise their ancient authority but that authority ought always to be available.

I appreciate the opportunity to express my views on this most important legislation.

Sincerely,

CHARLES E. ARES,
Dean.

THE UNIVERSITY OF ARIZONA,
Tucson, Ariz., May 6, 1968.

Senator JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: Dean Ares has forwarded to me a copy of your letter of April 19th requesting comment upon S. 917, the Omnibus Crime Control and Safe Streets bill. Without attempting to write a lengthy legal memorandum which I am sure you have in sufficient supply, I want to say that in my considered opinion the bill is, in certain respects, plainly unconstitutional.

Of particular concern to me is the attempt to regulate the appellate jurisdiction of the Supreme Court. While language in *Ex Parte McCardle*, 7 Wall. 506, certainly suggests a residual power in Congress to deprive the federal courts of specific areas of jurisdiction, it is my view that Congress, having once established the courts, must refrain from disestablishing areas of judicial concern when to do so would seriously hinder the protection of basic civil and constitutional rights. (See: *Glidden* v. *Zdanok*, 370 U.S. 530 at 604–605, dissenting opinion of Douglas J.)

The other provisions of the bill which attempt to legislatively define constitutional standards, are to my mind equally offensive. In our system of government the judiciary is the body that is empowered to "expound the constitution," to paraphrase Chief Justice Marshall.

Sincerely,

WINTON D. WOODS JR.,
Professor of Law.

THE UNIVERSITY OF CONNECTICUT
SCHOOL OF LAW,
West Hartford, Conn., May 3, 1968.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR TYDINGS: We would like to express our views concerning certain provisions of the proposed Omnibus Crime Control and Safe Streets bill.

We are of the opinion that the provisions of the bill which in effect repeal the *Miranda* and *Wade* cases are unconstitutional, and that Congressional attempts to undo Supreme Court decisions of Constitutional Law do not reflect credit on the legislative process.

The provisions of the bill which withdraw the jurisdiction of federal courts over state court convictions, although arguably constitutional, are unwise and unwarranted. We feel that legislative action which is designed to limit the availability of federal judicial protection of individual constitutional rights is an extremely dangerous precedent.

Very truly yours,

JOSEPH A. LAPLANTE,
Professor of Law.
ARNOLD H. LOEWY,
Assistant Professor of Law.

UNIVERSITY OF DETROIT
SCHOOL OF LAW,
Detroit, Mich., May 8, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Our Dean, Father Paul Harbrecht, referred your letter of April 19, 1968 to various faculty members with academic responsibility over the subject matter of S917, the so-called Omnibus Crime Control and Safe Streets Bill. As I teach the basic six-hour course in Constitutional Law as well as the Seminar in Crime and Society (Criminology), I would like to take this opportunity to indicate that I fully agree with your stand regarding Title II, as I have in the past with respect to the Dirksen Amendment on reapportionment (e.g. your remarks of March 22, 1967 on the Senate floor).

Although the McNabb-Mallory Rule should be retained as a standard for states to work toward in their administration of criminal justice, and thus proposed section 3501 should be struck down, I would like to center my remarks on proposed sections 3502, 3503 and 2256 due to the portentous ramifications they embody with respect to the federal balance-of-power. Such dangers are *pro tanto* enhanced with the diminishing powers of the states due to their failure to respond to the needs of the population. Given this increasing political fact of American life, the federal balance of power so wisely provided by our founding fathers constitutes a virtual "last stand" against a situation conducive to absolutism.

First let us look to experience. Over the one hundred seventy nine years of the republic there have been only three opinions of the Supreme Court that have had to be reversed by amendment, viz, Amendments 11, 13–15, and 16. If after given a chance to operate, the decisions obviously attacked are improper ones, then all informed citizens committed to our utilitarian system would have to reply, "so be it." However, the truth is that the above proposed sections represent the pressure of a small minority of politically powerful individuals who mistakenly feel that they, and their past performance, are attacked when the Supreme Court attempts to equalize the substance of criminal justice meted out to all citizens in spite of their financial and/or intellectual resources.

Those instances, for example, where attempts have been made to determine if the decisions regarding confessions have had a negative impact on successful prosecutions, the answer has almost always been no. (I say "almost always" because I am not aware of any such reports, but admit they may exist.) The Eleventh Amendment resulted from an error of draftsmanship; the 13–15 from a basic social problem still with us, and then only after a bloody war; and the 16th from the political ramifications of the industrial revolution. Let us not now set the dangerous precedent of allowing special-interest groups (however well-meaning they may feel their cause to be) the ability to overturn untested rules directed at the protection of the individual, the very *raison de etre* of our nation. As Justice Brandies once wrote, "The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well-meaning but without understanding."

I have had the privilege of discussing the cases in issue with both Mr. Justice Brennan and former Justice Tom Clark. The latter informed me shortly after the Miranda decision that he has realized the wisdom behind the majority opinion of the Court, and supports it. May I suggest you request that he, or both he and Mr. Justice Brennan (if tradition permits) be called to testify regarding the proposed legislation. May I suggest District Attorney Yeager of Los Angeles County, California, also be called.

More dangerous than the substance of these proposals, and the portentous consequences of further dividing this nation between the rich and the poor, is the methods the proponents choose to realize their objectives. Rather than attempt the Amendment route, honestly proclaiming their objective, and requesting the people for a mandate through the state legislatures, the supporters of the Title II are willing to risk a serious impairment of the federal balance-of-power, with all the consequences alluded to above. If I may be allowed to utilize a cliché, they are willing to run the grave risk of throwing the baby out with what deem to be bath water.

Moreover, the legislation raises serious problems of constitutional dimensions. It is true that *Ex Parte* McCardle is on the books. It is a product of its times, of Reconstruction with its concomitant national anger over the unnecessary carnage of brother against brother. But it was followed later the same year by *Ex Parte Yerger*, and most significantly, by *United States* v. *Klein* shortly thereafter. With the disappearance during recent years of the deference granted to property rights (Klein) when contrasted with those of the individual (McCardle), the Supreme Court, in my opinion, will deem the above proposals regarding its jurisdiction unconstitutional as a violation of the balance-of-power. Certainly the language of *Baker* v. *Carr*, as well as Mr. Justice Douglas' remarks in *Glidden Co.* v. *Zdanok* in response to Mr. Justice Harlan, tends to support my conclusion.

Should this prove to be the case, where will Congress find itself? It will in effect "be out on a limb." It will have forced upon itself the choice between backing down in the face of a challenge to its power under Article III, Section 2, Paragraph 2, Sentence 2 of the Constitution, or calling into issue the fundamental power of judicial review upon which rests our most sacred and traditionally proclaimed national characteristic—that we are a nation "of laws and not of men."

One is compelled to ask, "For what purpose does Congress present itself with this possible dilemma?" "Is it due to a basic national need or requirement?" (I find none!) "Is it acting to protect a fundamental American principle with respect to the rights of the individual?" (Quite the contrary will result.) Thus, perhaps presumptuously, I must suggest that Congress forbear, lest it and the nation end up the eventual victims of the ominous legislative effort.

Respectfully,

ALLEN SULTAN,
Assistant Professor.

LOUISVILLE, KY.,
May 8, 1968.

Hon. JOSEPH D. TYDINGS,
Senate Office Building,
Washington, D.C.:

The undersigned law professors respectfully urge you to vote against title II of Senate bill 917 which title is designed to curtail many important constitutional guaranties affirmed by the Supreme Court. We regard this title as reactionary and one which may bring the courts and Congress into conflict over constitutional guaranties. Legislation in this field is apt to provoke more trouble than it settles. History has shown that the limits of constitution rights are more properly a field for judicial development than for legislative action. CC Hon. Joseph D. Tydings.

DEE A. AKERS,
WM. E. BIGGS,
NATHAN S. LORD,
JAMES R. MERRITT,
RALPH S. PETRILLI,
WM. E. READ,
ABSOLEM C. RUSSELL,
W. SCOTT THOMSON,
University of Louisville School of Law, Louisville, Kentucky.

NOTRE DAME LAW SCHOOL,
Notre Dame, Ind., May 7, 1968.

Hon. JOSEPH D. TYDINGS,
U.S. Senate, Committee on the Judiciary,
Washington, D.C.

DEAR SENATOR: I regret exceedingly that it has not been possible to reply sooner to your letter of April 19 concerning S. 917. One of our brilliant young professors, at my request, has written a brief memorandum on Title II of the Bill. I share his views and pass them on to you, since it seems to me that he has said what I would say better than I could say it myself.

"The effort to legislatively overrule *Miranda* is unfortunate and illegal. Unfortunate because *Miranda*, when all is said and done, does no more than extend to the poor and stupid what the wealthy and sophisticated have had all along. Illegal because it attempts to amend the Constitution by statute, which is a legislative version of what Senator McClellan accuses the Court of.

"Restriction of the *habeas corpus* jurisdiction is unwise, in view of the proud history of that remedy in Anglo-American jurisprudence and in view of its use in our own history to protect the most disadvantaged and unpopular of criminal defendants. It is also a paltry attempt to punish the Supreme Court by hopelessly clogging its certiorari and original dockets."

With warm regards and all best wishes, I am,

Sincerely,

JOSEPH O'MEARA,
Dean.

GUN SALES UPSURGE BRINGS NEW SUPPORT FOR STRONG LAW

Mr. DODD. Mr. President, recognition of the need for a strict Federal firearms law to help the police and help the States enforce their own gun laws is more widespread now than ever.

Police departments, city fathers, State leaders, newspapers, and business leaders who were previously not convinced of the need for the type of legislation I have proposed, and which is now title IV of the omnibus crime bill, are now openly supporting the measure.

In the Washington area, Fairfax County Police Chief William L. Durrer has called for a broad extension of the existing firearms laws.

He will ask the jurisdictions that are members of the Metropolitan Washington Council of Governments to agree upon and adopt a strong uniform law containing the provisions contained in my title IV of the omnibus crime bill whether or not the Federal bill is acted upon.

Why this change in attitude by public officials? I have previously pointed out to my colleagues the rash of hysterical gun buying in cities during and following civil disorders.

Witnessing long lines of people at gun shops purchasing firearms out of fear and hysteria has been enough to convince many.

Here is what Colonel Durrer found happening in this area since the assassination of Dr. Martin Luther King on April 4:

Suburban gun sales shot up from a first-quarter monthly average of 1,350 to a total of 2,500 in April.

Between January 1 and April 1 there was a total of just more than 4,000 handgun applications in Arlington, Fairfax, Montgomery, and Prince Georges Counties and the city of Alexandria.

Colonel Durrer concluded:

There is little doubt that the laxity of the laws and their lack of uniformity contribute to many weapons eventually falling into the hands of the wrong people.

A detailed story on Colonel Durrer's findings appeared in the Washington Post on May 11, 1968.

I ask unanimous consent to have printed in the RECORD the article entitled "Fairfax Chief Urges Strict Area Gun Code," written by Kevin Klose and published in the Washington Post of May 11, 1968.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FAIRFAX CHIEF URGES STRICT GUN CODE

(By Kevin Klose)

With suburban handgun sales after the Washington riot almost doubled to a monthly rate of 2500, Fairfax County Police Chief William L. Durrer called yesterday for sweeping extension of the area's local gun laws.

Col. Durrer said he will ask jurisdictions that are members of the Metropolitan Washington Council of Governments to agree upon and adopt a strong uniform law.

It would require police review and approval of all rifle and shotgun sales. Such controls are now required only on sales of handguns.

Durrer said he also would seek laws forbidding dealers to sell guns to nonresidents of the jurisdictions, either over the counter or by mail.

At present, there are no local laws governing the purchase of rifles and shotguns in any of the jurisdictions. Limits on handguns sales vary widely. Durrer said these variations should be eliminated to improve the administration and police control of weapons sales.

Durrer, who has been Fairfax chief for 10 years, declared, "There is little doubt that the laxity of the laws and their lack of uniformity contribute to many weapons eventually falling into the hands of the wrong people."

All suburban police departments have reported a sharp rise in the number of pistol applications since the Washington disorders that started April 4, the day Dr. Martin Luther King, Jr., was assassinated in Memphis, Tenn.

Suburban gun sales shot from a first-quarter monthly average of 1350 to a total of 2500 in April.

Between Jan. 1 and April 1 there was a total of just more than 4000 handgun applications in Arlington, Fairfax, Montgomery and Prince Georges counties and the City of Alexandria. Most of those applications, police have said, were made by residents of the counties.

Since April 1, applications have jumped to slightly more than 2500 a month. Most police departments report no drop in pistol applications.

There are no figures available for Loudoun or Prince William County, which have no local gun control laws.

District police have declined to release any figures on weapons purchases on the grounds that to do so might stir apprehension.

Purchasers of rifles and shotguns in the suburbs need not file any application with police, as there are no figures available for sales of these weapons. However, police privately express concern at the continuing heavy sales of arms of every type.

Police routinely approve handgun applications unless the applicant is under age, judged mentally incompetent or has a criminal record. Police make these checks during waiting periods before the purchaser can pick up the gun. The periods vary in length among the jurisdictions.

Durrer said the uniform local law should include the provisions of Sen. Thomas J. Dodd's (D–Conn.) strong gun control measure whether it becomes Federal law or not. Senate action on the Safe Streets Act, of which the Dodd bill is part, is pending.

The main thrust of the Dodd law is to prohibit the interstate shipment of handguns to individuals and over-the-counter sale of handguns to individuals who live outside the dealer's state.

Initial reaction in the area to Durrer's proposals was luke-warm.

The State's Attorneys in both Montgomery and Prince Georges Counties said that while they favor passage of a uniform gun control law, they did not see much chance of its being passed.

Fairfax Commonwealth's Attorney Robert F. Horan Jr. said he believes gun control laws, no matter how stringent, do not prevent criminals from obtaining weapons.

Washington Public Safety Director Patrick Murphy was unavailable for comment.

The Fairfax law gives police three days to check out hand-gun applicants, but requires them to destroy all records of gun sales within 10 days of receipt. Durrer called this provision "ridiculous."

However, he said it would be of little use for Fairfax alone to strengthen its gun ordinance. "Without a uniform law for the whole metropolitan area, there is little point in Fairfax's going it alone. It would be too easy to buy a weapon outside the County and thwart our efforts.

Mr. DODD. But the need for uniformity in laws regulating firearms is recognized in other areas also. In the April 8, 1968, edition of the St. Joseph, Mo., News-Press, the editors observed:

If the state laws to regulate guns are to be effective, there must be a degree of uniformity. And the eventual alternative to uniformity among state laws is the mandatory uniformity of a Federal law.

It seems, Mr. President, that a resident of St. Joseph, Mo., who cannot get a firearm because of the restrictions of Missouri law, can simply go across the border to Kansas and buy whatever he wants. The Kansas gun law is weak.

I ask unanimous consent that the editorial entitled "Kansas Gun Law Weak," published in the St. Joseph, Mo., News-Press of April 8, 1968, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

KANSAS GUN LAW WEAK

A Senate committee's defeat of a proposed gun regulation measure points out a problem that exists in St. Joseph, or in other border cities in Missouri.

The defeated measure would have prohibited over-the-counter sale of hand guns to residents of another state.

Under Missouri law, a hand gun may be purchased here only if prior arrangements are made for registration. Thus, authorities have some knowledge of where the gun is.

However, a St. Joseph resident, without any type of registration, may go to Kansas and purchase a gun there. Kansas has no such registration law for hand guns.

The discrepancy in the laws presents a dilemma for the sheriff in a Missouri county, who handles the registration. If he feels a man for some reason should not have a hand gun, he may decline to register the request and give him authorization to buy the gun. In such instances, the man need only go to Kansas.

On the other hand, the sheriff, even though knowing the man is not the type who should have a hand gun, may feel it is wiser to register it and permit him to purchase it here. In that way, there is at least a record of who has the gun.

If state laws to regulate guns are to be effective, there must be a degree of uniformity. And the eventual alternative to uniformity among state laws is the mandatory uniformity of a federal law.

Mr. DODD. Threatened civil disorder in the Independence, Mo., area on April 11 and 12 caused Mayor Donald M. Slusher of that city to declare a complete curfew at 8 p.m.

The mayor forbade the sale of gasoline and liquor after 8 p.m. and completely suspended the sales of firearms and ammunition.

It was another case of a responsible public official recognizing that local firearms laws were not adequate and using his good judgment to keep them out of the hands of a panicked public in the event of public disorder.

I ask unanimous consent to have printed in the RECORD the article entitled "Sale of Ammunition, Firearms Halted Here," published in the Independence, Mo., Examiner of April 12, 1968.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SALE OF AMMUNITION, FIREARMS HALTED HERE

The sale of firearms and ammunition in the city of Independence is prohibited until further notice, Mayor Donald M. Slusher said today.

Slusher said a decision on a curfew tonight remains up in the air, but liquor establishments, taverns and sale of liquor will stop at 8 o'clock tonight.

Slusher said the sale of gasoline also will be suspended at 8 p.m.

"It is not the intention of the city administration to hamper the normal movement of the citizens," Slusher said, "but because of circumstances in our neighboring city, I feel the foregoing restrictions are important."

Slusher said he had utmost faith in all citizens of Independence and in all minority groups in the community.

So far as can be determined, yesterday's full curfew restrictions were the first imposed on the city of Independence. There have been other curfews, of course, during war time years and back in the early pioneer days.

The curfew yesterday is thought to be the first full-scale civil curfew imposed.

Mr. DODD. Finally, an Associated Press story out of New York City dated May 10, published in the Washington Post on May 11, 1968, tells in some detail the reaction of government after the recent civil disorders.

The lead paragraph says:

Many state and local governments and major department stores are clamping down on gun sales in the aftermath of recent civil disorders.

I commend to the attention of my fellow Senators and ask unanimous consent to have printed in the RECORD the article entitled "Firearms Sale Curbs Spreading," published in the Washington Post of May 11, 1968.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIREARMS SALE CURBS SPREADING

NEW YORK, May 10.—Many state and local governments and major department stores are clamping down on gun sales in the aftermath of recent civil disorders.

Most active in restricting sales and possession of firearms, particularly pistols, have been states in which riots occurred, a spot check around the country showed today.

Sears, Roebuck and Montgomery Ward, major mail order houses, have quit filling mail and phone orders for guns. Some major department stores have discontinued gun sales entirely.

Early this year Chicago enacted laws which require gun owners to register them and which extend the ban on carrying concealed handguns to include rifles and shotguns.

Effective July 1, the state of Illinois will require all persons possessing firearms or ammunition to have a license. California enacted a gun control law banning loaded firearms in public areas except for police and permit holders.

Montgomery Ward announced it will not mail directly to customers firearms, pellet and BB guns and ammunition. Customers who order guns by mail or telephone will be required to pick up their orders personally and show proof that they are over 21 years old.

Sears, Roebuck said it was imposing the same restrictions.

In New York City, Macy's, Alexander's and Abraham Straus department stores have discontinued gun sales. So has Bamberger's, the biggest department store chain in New Jersey.

In Detroit, a group of businessmen is running a series of newspaper and television advertisements in an effort to curb what has been called an arms race by white suburban residents fearful of riots.

NRA LOBBY KILLS ANOTHER GUN BILL

Mr. DODD. Mr. President, while we have been debating S. 917, the omnibus crime bill including title IV, my amendment to beef up the Federal firearms laws, the gun lobby, led by the National Rifle Association, has won another battle.

Yesterday, the New York State Assembly killed Governor Rockefeller's firearms legislation which would have required the statewide licensing of rifles and shotguns.

And the debate, long inflamed by legislative bulletins, letter-writing campaigns, and publicity generated by the NRA and its followers, flared into animosity.

In the confusion of heated debate, where lobbies—and the firearms lobby in particular—work their will best, the firearms legislation was sent back to committee.

The New York Times, in a page 1 story printed today, March 14, 1968, told it this way:

The action came as the legislators—and a noticeably large number of lobbyists—returned to the rococo gray Capitol building to attempt to finish off the backlog of this year's bills.

But the feeling among many legislators here was that the session might well drag on into next week.

S. William Green, Republican of Manhattan, acted as sponsor of the gun bill for the Rules Committee, which alone can bring bills to the floor at this late date.

Speaking above a hubbub of conversations, Mr. Green said the bill was necessary to keep weapons out of the hands of "people who are mentally deranged." He cited recent multiple slayings by riflemen at the University of Texas and in New York's Bryant Park.

But he spent much of his speech stressing that the new licensing bill would "substantially increase the rights" of gun-owners in New York City by establishing a statewide board of appeal to which they would have recourse if denied a license under the city's more stringent regulations.

Leonard P. Stavisky, Democrat of Queens, spoke at length in favor of the bill, mentioning the ease with which the weapons used in the sniper slayings of President Kennedy and the Rev. Dr. Martin Luther King Jr. were obtained.

When Mr. Stavisky charged that the National Rifle Association, which lobbies against gun control legislation, "delights in misinforming" the public. Edwyn E. Mason, Republican of Hobart, jumped to his feet.

"I've been a member of the National Rifle Association for more than 20 years and you don't know what you're talking about," he shouted.

"You're just blowing off steam—you're shooting off your mouth," Mr. Mason continued angrily over Mr. Stavisky's protests of "I will not yield."

"Mr. Stavisky—You're lying!" continued Mr. Mason.

Mr. Travia gavelled for order, and Mr. Mason returned to reading his newspaper. A few minutes later the Speaker called for a show of hands of those opposed to the bill.

Nearly all the members on the Republican side of the aisle and about half of the Democrats raised their hands, and Mr. Green nodded quietly when Mr. Travia asked him if he would move to recommit.

Mr. President, this is a familiar story to those of us who have sought to represent the public interest in the matter of firearms legislation. It has been repeated for 30 years here in the Congress. And in State legislatures and city councils across the country it has been the same.

The "educational functions" of the tax-free lobby called the National Rifle Association has come into play. It has used its prestige as a partially Government-supported institution and its money, in large part derived from the firearms industry, to distort the intent and provisions of virtually every piece of proposed firearms legislation without regard to where it appears.

And at the end of each year it brags in its annual operating report how efficient it was in opposing laws that would keep firearms out of the hands of madmen and criminals.

For example, under the title of "Legislative Service" in the 1967 annual operating report, the NRA makes the following boasts about its antifirearms law campaign for the previous year:

Through reporting machinery, legislation proposed at the federal and state levels usually can be discovered in time to inform NRA members when urgent action is required. Local legislation, however, may be enacted much more swiftly than national or state laws. Local communities must be alert and must act quickly and decisively, in a well-organized manner, to defeat such threats. Some communities have met the situation by means of a "watchdog" committee consisting of local NRA members and club representatives who are capable of quickly detecting restrictive measures and, as quickly, generating concerted, well-timed action.

Information to NRA members about firearms control proposals is supplied by three principal means: (1) The regular report, "What the Lawmakers are Doing," in The American Rifleman; (2) NRA legislative bulletins and memoranda; (3) direct contacts by mail, telephone or telegram. During 1966 over 180 bills of interest to gun owners were introduced in 21 state legislatures and the U.S. Congress. Details about the more important proposals were published in 43 columns of the magazine, and 8 legislative bulletins were mailed to 91,754 members and clubs in 6 states. NRA members reacted promptly, firmly and in force. As a result, no severe legislation was enacted on the federal level, and only one significant control measure was enacted on the state level (New Jersey).

Mr. President, I ask unanimous consent to have printed in the RECORD the article entitled "Assembly Kills Gun Control Bill," written by John Kifner and published in the New York Times of May 13, 1968.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ASSEMBLY KILLS GUN-CONTROL BILL—SENDS ROCKEFELLER PROPOSAL TO COMMITTEE AFTER DEBATE

(By John Kifner)

ALBANY, May 13.—The State Assembly killed Governor Rockefeller's gun-control bill today.

The bill, which would have required the statewide licensing of rifles and shotguns, was sent back to the Committee on Rules by an overwhelming show of hands after a 45-minute debate that flared briefly into animosity.

The action came as the legislators—and a noticeably large number of lobbyists—returned to the rococo gray Capitol building to attempt to finish off the backlog of this year's bills.

But the feeling among many legislators here was that the session might well drag on into next week.

The Assembly moved at its usual Monday pace today, meeting at 3 P.M. and adjourning a little before 6, with the Republican back-benchers voting as a bloc against any bill that appeared to have anything to do with public housing, and other members wandering in and out.

Much of the day's calendar, including controversial bills authorizing publicly built atomic power plants and permitting eavesdropping under certain circumstances, was put aside until tomorrow, causing Speaker Anthony J. Travis to warn several times that it would be a long working day.

S. William Green, Republican of Manhattan, acted as sponsor of the gun bill for the Rules Committee, which alone can bring bills to the floor at this late date.

Speaking above a hubbub of conversations, Mr. Green said the bill was necessary to keep weapons out of the hands of "people who are mentally deranged." He cited recent multiple slayings by riflemen at the University of Texas and in New York's Bryant Park.

But he spent much of his speech stressing that the new licensing bill would "substantially increase the rights" of gun-owners in New York City by establishing a statewide board of appeal to which they would have recourse if denied a license under the city's more stringent regulations.

Leonard P. Stavisky, Democrat of Queens, spoke at length in favor of the bill, mentioning the ease with which the weapons used in the sniper slayings of President Kennedy and the Rev. Dr. Martin Luther King Jr. were obtained.

When Mr. Stavisky charged that the National Rifle Association, which lobbies against gun-control legislation, "delights in misinforming" the public, Edwyn E. Mason, Republican of Hobart, jumped to his feet.

"I've been a member of the National Rifle Association for more than 20 years and you don't know what you're talking about," he shouted.

"You're just blowing off steam—you're shooting off your mouth," Mr. Mason continued angrily over Mr. Stavisky's protests of "I will not yield."

"Mr. Stavisky—You're lying!" continued Mr. Mason.

Mr. Travia gavelled for order, and Mr. Mason returned to reading his newspaper. A few minutes later the Speaker called for a show of hands of those opposed to the bill.

Nearly all the members on the Republican side of the aisle and about half of the Democrats raised their hands, and Mr. Green nodded quietly when Mr. Travia asked him if he would move to recommit.

BUSINESS LEADERS FEAR HYSTERICAL GUN BUYING

Mr. DODD. Mr. President, ever since Detroit exploded into one of the most severe race riots of our history last year, residents of the Detroit area have been hearing "promises from both races of a long, hot, death-filled summer" in 1968.

Rumors, deadly rumors, have kept the community on edge. Racists have been having their day. Fear has been exploited. And that fear has too frequently exhibited itself in buying firearms. Home and self protection are the byword. The suggestion is that possessing a loaded gun within the home is the answer to the community problems underlying civil unrest.

In Michigan, and especially the Detroit area, if you want a gun and cannot comply with local law, it is a simple matter to run over to Toledo, Ohio, and buy just about anything you want in just about any quantity you want.

Investigators of the Juvenile Delinquency Subcommittee proved that in the midst of the Detroit riot last summer.

The Senate will recall that the Detroit riots and the legislative hearings on S. 1, amendment No. 90, were running concurrently. I reported to the Senate at that time the findings of our investigators. I pointed out that the direct findings of our investigators, even in the heat of the civil disorders, confirmed the need for strong Federal laws to control the interstate shipment of all firearms.

Michigan residents were crossing State lines to buy arms and ammunition and then returning to Michigan. The weak Federal laws were useless. They were little or no help to Michigan officials who wanted to effectively enforce their own laws.

What is needed is a Federal law that will enable the States to enforce their own statutes, whatever those statutes may call for.

The Detroit situation was a classic example of Federal laws drawn in another era to accommodate hunters and gun collectors, now being used by racists and an alarmed public to contribute to civil disorder and the devastation that goes with it.

My plea for action then fell on deaf ears.

There was no action then. And there has been no significant action to date.

I repeat the plea that President Johnson made to the Senate last week:

> The pending bill also addresses itself to another urgent national concern—the need for gun control legislation.
>
> I have sought a proper and strong gun control bill for as long as I have been President.
>
> Title IV takes a long step toward public safety, by helping to keep pistols and other hand guns away from the dangerous and the deranged.
>
> But it does not go far enough.
>
> It fails to provide the same protection against weapons which are just as deadly in criminal hands—the rifle and other long guns.
>
> Now, it is time to stand up and show we are not a Government by lobby but a Government of law.
>
> Has not the high powered mail order rifle brought tragedy enough to America? What in the name of conscience will it take to pass a truly effective gun control law?
>
> The issue of immediate importance is to bring safety to our streets.
>
> We can best do this by:
>
> Strengthening the Gun Control Law.

Mr. President, that plea has been made a hundred times over by newspapers across this country, by broadcasters, magazines, labor unions, religious leaders, women's groups and other associations too numerous to mention.

Citizens across the country are deeply concerned, not only about the proliferation of firearms, and their unrestricted sale in the face of the obvious stockpiling of them by extremists on both sides, but by thousands of nervous, just plain scared people purchasing weapons and ammunition who have no knowledge of their use.

Because this is precisely the situation in the Detroit area, Men United for Sane Thought—MUST—was formed this year.

It is an organization of Detroit business and professional men who are worried about the "hysteria and fear within the white community represented by the gun buying taking place within the metropolitan area."

MUST, last winter, became "deeply concerned that little or nothing constructive was being done to confront the very real likelihood of riots in the city of Detroit."

The situation in Detroit at the moment must be tense. There must be official concern that riots could break out again this summer.

Mayor Jerome P. Cavanaugh, speaking in Los Angeles this week, according to the Washington Daily News, said the most disturbing aspect of the recent racial turmoil is the willingness of the American people to suspend their rights to achieve tranquillity.

Mayor Cavanaugh cited the 5 days in Detroit after Dr. Martin Luther King, Jr.'s death "when for 5 days we had in effect suspended the Constitution."

MUST must know what it is talking about. The organization said:

> As far back as January, Detroit was in the midst of an arms buying spree unprecedented in the history of the city.

According to a public statement by the group:

> It was felt by "MUST" that to sit still and do nothing as we all have done for a number of years, and to allow the racists to have their day would not only be a physical threat to ourselves, but an insult to everything we have been taught, worked for and tried to maintain within our society.

Thus, a cooperative effort by these professionals has resulted in a newspaper, television, and radio campaign that is saturating the Detroit metropolitan area. It points out:

> The ridiculousness of rumors and the danger to individuals possessing loaded weapons within their homes.

The campaign has been endorsed by the mayor, the Inter-Faith Action Council of the Detroit Council of Churches, Bishop Emerich's Human Relations Council, and the New Detroit Committee's Subcommittee on Communications.

The advertising copy emphasizes the obvious flaws of logic in possessing a loaded firearm in the midst of a riot, keeping a loaded shotgun in the closet, or purchasing a gun in the midst of tension and fear.

Here are some quotations from the copy:

> Anyone looking forward to celebrating the 2nd Annual Detroit Riot this summer . . . is too sick to go.
>
> Charlie's the fastest draw on the block. Just last night he got the drop on Miller's trash can. Charlie's not taking any chances.
>
> Willie made it through Normandy, Seoul, and DaNang. He doesn't need the Purple Heart for Detroit.
>
> Keeping up with the Joneses this summer could cost you your life.

Mr. President, I ask unanimous consent that the entire copy of this out-

standing public service advertising campaign be printed in the RECORD at this point, together with a statement concerning it made by the officials of MUST on May 2, 1968.

I hope it will be an example to my colleagues of the depth of public concern over the need for an effective Federal firearms law as debate on title IV of the omnibus crime bill proceeds.

There being no objection, the advertising copy was ordered to be printed in the RECORD, as follows:

"MUST" (MEN UNITED FOR SANE THOUGHT)

DETROIT, MICH., May 2, 1968.—"MUST" (Men United for Sane Thought), an organization of concerned Detroit business and professional men, announced the launching of a saturization advertising campaign aimed at "the hysteria and fear within the white community represented by the gun buying taking place within the metropolitan area." Kenneth M. Davies, spokesman for the group, told a press conference today the campaign is designed to point out what he called, "the ridiculousness of rumors and the danger to individuals possessing loaded weapons within their homes."

"MUST," a group of young business and professional people including lawyers, doctors, accountants, bankers, stockbrokers, restaurateurs, salespeople, engineers, and advertising people, in January of this year became deeply concerned that little or nothing constructive was being done to confront the very real likelihood of riots in the city of Detroit.

In January, Detroit was in the midst of an arms buying spree unprecedented in the history of the city. At the same time, Detroit was hearing promises from both races of a long, hot, death-filled summer.

It was felt by "MUST" that to sit still and do nothing, as we all have done for a number of years, and to allow the racists to have their day would not only be a physical threat to ourselves, but a insult to everything we have been taught, worked for and tried to maintain within our society.

In the past 4 months, "MUST" has and continues to consult with the many representatives of our community, including the city government, the New Detroit Committee, the Board of Commerce, clergymen, civil rights organizations, and militants, both white and black.

The advertising campaign, which at present consists of eleven ads suitable for newspapers, two 1-minute television spots, and one 1-minute radio spot, were produced without the direct outlay of any moneys. The newspaper ads are running in the: Royal Oak Tribune, Macomb Daily, Cessa Summaries, Birmingham Eccentric, Jewish News, Lincoln Parker, Allen Parker, Melvindale Messenger, Ecorse Enterprise, Southgate Sentinel, Township Tribune, Southwest Detroiter.

The following, additional, Detroit newspapers have provided the campaign with 95% of the available newspaper space and have agreed to run the campaign as outlined in the earlier release: East Side Shopper, East Side Booster, East Side Express, Grosse Pointe Express, Harper Woods Community News, St. Clair Shores Community News, East Detroit Community News, Roseville Community News, Clinton Township Community News, Mt. Clements Community News, Centerline Community News, Warren Community News, Northwest Detroiter, Northwest Recorder, Westtown News, Oak Park News, Huntington News, Southfield Record, Southfield Reporter.

The television spots are being produced by W.X.Y.Z., Channel 7, and will be distributed to other local television stations.

The Naegele Sign Co., has donated two billboards and the Archdiocese of the City of Detroit is distributing copies of the ads to all Parish Churches in the Metropolitan area.

The campaign has been endorsed by the Mayor, by the New Detroit Committee's Sub-Committee on Communications, by Bishop Emerich's Human Relations Council, as well as by the Inter-Faith Action Council of the Detroit Council of Churches.

It is the groups' intent to expand the campaign nationwide and to develop new advertising campaigns pointing out the crisis in our cities.

ANYONE LOOKING FORWARD TO CELEBRATING THE SECOND ANNUAL DETROIT RIOT THIS SUMMER IS TOO SICK TO GO

The illness has nothing at all to do with skin color. It can affect whites just as potently as it can blacks. With the same ultimate results.

Rumor has it some people already have the bug. Their numbers are few. And they can be controlled.

We can stop them cold with some individual responsibility of the part of every sane citizen, black and white, in metropolitan Detroit.

You see, even the sickest minds in our community can't go anywhere unless a whole lot of healthy people help them out.

The wonder drug here is reason. Use it. The bug can be fatal.

—MUST.

CHARLIE'S THE FASTEST DRAW ON THE BLOCK. JUST LAST NIGHT HE GOT THE DROP ON THE MILLER'S TRASH CAN—CHARLIE'S NOT TAKING ANY CHANCES

After all, Mr. O'Neil told him the neighborhood was going to be attacked by rioters. And Mr. O'Neil knows. Because he got it from Sam Harper who heard it from Thelma Higgins who picked it up from a lady she drives to work.

So naturally, Charlie had to dust off his faithful old shotgun, buy a couple hundred rounds of ammo and practice that hipshot he learned in the army back in '44. Just in case the local authorities can't handle things.

Charlie means well. He's no killer. But what do you think will happen tonight if, by some small oversight, Charlie gets the drop on Mr. Miller? Instead of the trash can.

—MUST.

WILLIE MADE IT THROUGH NORMANDY, SEOUL, AND DANANG—HE DOESN'T NEED THE PURPLE HEART FOR DETROIT

Now, that surprises some people. Because Willie is a Negro. And some people would have you and me believe that every normal, average, red-blooded American Negro is looking forward to a riot in Detroit this summer.

The fact is this. The normal, average, red-blooded American Negro doesn't want a riot in Detroit this summer any more than the normal, average, red-blooded American white. He wants to live as much as we do.

And for the same reasons.

Take Willie. He's a family man—a wife and two kids. He works hard for a living—career Master Sergeant, U.S. Army. He owns his own home—complete with 20-year mortgage. And the only weapon he enjoys is a red and white jitterbug that drives the smallmouth bass in Anchor Bay positively wild.

If that amazes you, we're glad.

Perhaps you ought to amaze some of your friends. Because we still believe that the best way to squelch a lot of ugly rumors is a bit of pure honest-to-gosh truth.

—MUST.

KEEPING UP WITH THE JONESES THIS SUMMER COULD COST YOU YOUR LIFE

You know the Joneses.

The family next door. Who always buy the things you plan on getting—just before you do.

This year it's guns.

A shotgun and a .45.

Plus a .22, a .38 Colt and a Four-Ten just in case.

You know why.

The local authorities just won't be able to handle things this summer. That's what Jones says, anyway.

So you're going to get a few guns.

What are you going to do with them after you buy them?

If your son can find the toys 2 weeks before Christmas, he can find anything you hide. He might even show his little sister.

Look. No one knows what'll happen in the city this summer. Hopefully nothing.

But we all know what might happen in a suburban home filled with lethal weapons.

All it takes is a sleepy wife.

A nervous neighbor.

A curious child.

And a loaded gun.

—MUST.

POLICE CHIEFS ENDORSE TITLE IV AMENDMENT 100 PERCENT

Mr. DODD. Mr. President, the police officers, the attorneys general and virtually everyone involved in criminology or penology has now rendered their considered judgment on the value and effectiveness of the various gun bills pending before this Congress.

Wednesday I spread on the RECORD endorsements for my legislation from virtually everybody that is anybody in law enforcement.

My proposal meets the minimum requirements of law enforcement in the judgment of the Attorney General of the United States, the Director of the Federal Bureau of Investigation, J. Edgar Hoover, the International Association of Chiefs of Police, a host of attorneys general and others.

Each day I hear from more law officers who want the kind of legislation I have proposed.

Just yesterday, I received a letter from the Police Chiefs Association of Southern Pennsylvania. The president, Thomas F. McDermott said:

Be assured that the members of this Association of over 800 dedicated law enforcement officials back you 100% in having the firearms control bill passed.

And chief of police, Brice G. Kinnamon of Cambridge, Md., in another letter just received said:

I have read your proposed amendment to S. 917 and believe it is a step in the right direction. . . . I heartily endorse its contents in their entirety.

Mr. President, we have now nearly 100 percent endorsement from law enforcement. They do not want just any law. They want a law that will work, that will help them to disarm the criminals and keep the peace.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to myself from Thomas F. McDermott, Police Chiefs Association of Southern Pennsylvania, dated May 7, 1968, and a letter from Brice G. Kinnamon, chief of police, of Cambridge, Md., dated May 8, 1968.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

POLICE CHIEFS ASSOCIATION OF SOUTHERN PENNSYLVANIA,
Philadelphia, Pa., May 7, 1968.

HON. THOMAS J. DODD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: Be assured that the members of this Association of over 800 dedi-

cated law enforcement officials back you 100% in having the firearms control bill passed.

We also are behind President Johnson in having the safe streets and crime control bill passed as is.

Very truly yours,

THOMAS F. MCDERMOTT,
President.

CITY OF CAMBRIDGE,
Cambridge, Md., May 8, 1968.

Senator THOMAS J. DODD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: I have read your proposed amendment to S. 917 and believe it to be a step in the right direction.

I heartily endorse its contents in their entirety.

Your truly,

BRICE G. KINNAMON,
Chief of Police.

STATEMENT OF CHARGES THAT TITLE IV OF THE OMNIBUS CRIME BILL PROTECTS THE NEW ENGLAND FIREARMS MANUFACTURERS

Mr. DODD. Mr. President, I would like to address myself to a statement made on Friday, May 3, 1968, by Senator HRUSKA on the floor when he discussed title IV, my firearms control provision, to the omnibus crime bill. He said:

For more than a decade, the New England firearms manufacturers have been engaged in various attempts to restrict or eliminate competition from foreign sources. In the past several years, however, with imports of military surplus on the decline and many of the manufacturers obtaining firearms from foreign subsidiaries, interest by the industry in banning imports or restricting them has somewhat waned. However, since President Kennedy was assassinated with a military surplus weapon, repeated attempts have been made to justify embargoes because this particular type of weapon was used in the commission of the heinous crime.

Domestic gun-control legislation is no place to attempt to impose protectionist views on foreign trade policy. More importantly, the standard imposed for allowing imports would arm the Secretary of the Treasury with broad discretionary powers but would be virtually meaningless.

I must assume, being from New England and the sponsor of this legislation, Senator HRUSKA infers that I, or supporters of the title, are attempting "to impose protectionist views on foreign trade policy" to the benefit of the New England firearms manufacturers.

I would like to point out to the Senator from Nebraska that I wrote to these manufacturers or their trade organizations asking for support for title IV and I am sure that he would not really be surprised at their answers. For example, the National Shooting Sports Foundation which represents the bulk of the manufacturers of firearms and related equipment in this country, wrote to me on May 1, 1968 and said:

Our position is that we support Senator HRUSKA's Amendment No. 708.

The Board of Governors of NSSF has asked me to thank you for your consideration in allowing us to state our position.

I point out to the Senator from Nebraska that the membership of the National Shooting Sports Foundation includes the 10 major firearms manufacturers in Connecticut and seven firearms firms in Massachusetts.

The Sporting Arms and Ammunition Manufacturers' Institute in a letter of April 30 said:

For years we have supported the ideas which are best expressed in the Hruska bills, S. 1853 and S. 1854, now identified as amendment 708 to S. 917. We are hopeful that firearms legislation such as that proposed by Senator Hruska can be promptly enacted.

I think the Senator from Nebraska knows that this organization lists nine members including five major firearms manufacturers from New England, four of which are from Connecticut.

And, of course, the greatest representative of the gun merchants of them all, the National Rifle Association, wrote to me on May 3, 1968, and said:

The National Rifle Association has publicly supported a positive program for effective federal firearms controls. The pivotal elements of this program are S. 1853 and S. 1854, by Senator Roman L. Hruska of Nebraska, to provide for a certified statement approach for the receipt of handguns in commerce, and to regulate "destructive devices" under the registration and heavy tax provisions of the National Firearms Act. These bills have now been submitted as Amendment 708, a substitute for Title IV. The Association is in full accord with and categorically supports this Amendment.

I have similar letters from those who have a monetary interest in the proliferation of firearms in this country and to a man they support the Hruska bill. Two of these organizations include the Wildlife Management Institute and the National Wildlife Federation.

My question to the Senator from Nebraska is: Who is protecting whom?

I ask unanimous consent to have printed in the RECORD the following items:

A letter from Charles Dickey, director, National Shooting Sports Foundation, Riverside, Conn., dated May 1, 1968.

A list of the members of the National Shooting Sports Foundation, Inc.

A letter written by Harry Hampton, secretary-treasurer, Sporting Arms and Ammunition Manufacturers Institute, 420 Lexington Avenue, New York, N.Y., dated April 30, 1968.

A list of the members of SAAMI.

A letter from H. W. Glassen, president, National Rifle Association of America, Washington, D.C., dated May 3, 1968.

A letter from C. R. Gutermuth, vice president, Wildlife Management Institute, Washington, D.C., dated May 2, 1968.

A letter from Thomas L. Kimball, executive director, National Wildlife Federation, Washington, D.C., dated May 1, 1968.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NATIONAL SHOOTING SPORTS FOUNDATION, INC.,
Riverside, Conn., May 1, 1968.

Senator THOMAS J. DODD,
Chairman, Subcommittee To Investigate Juvenile Delinquency, U.S. Senate, Washington, D.C.

DEAR SENATOR DODD: Thank you for your letter of April 26 and for sending us a copy of your S. 1—Amendment No. 90, with some modifications, as Title IV to S. 917 the Omnibus Crime Control and Safe Streets bill. We appreciate your taking the time to ask our position.

NSSF testified in both the House and Senate in favor of the principles of S. 1853 and S. 1854. It is our understanding that these bills are now embodied in Amendment No. 708 which was introduced in the Senate on April 29 by Senator Roman Hruska.

Our position is that we support Senator Hruska's Amendment No. 708.

The Board of Governors of NSSF has asked me to thank you for your consideration in allowing us to state our position.

Sincerely,

CHARLES DICKEY,
Director.

MEMBERS OF NATIONAL SHOOTING SPORTS FOUNDATION, INC.

Abercombie & Fitch Co., New York, New York.
Amateur Trapshooting Association, Vandalia, Ohio.
American Walnut Manufacturers Assoc., Chicago, Illinois.
Ammodyne, Los Angeles, California.
Argosy, New York, New York.
Athletic Goods Manufacturers Assoc., Chicago, Illinois.
Bausch & Lomb, Inc., Rochester, New York.
H. J. Behn & Company, Inc., Bridgeport, Connecticut.
George Brothers, Great Barrington, Massachusetts.
Brownell's Inc., Montezuma, Iowa.
Browning Arms Company, Morgan, Utah.
J. M. Bucheimer Company, Frederick, Maryland.
Buffalo Gun Center, Inc., Buffalo, New York.
D. P. Bushnell & Company, Inc., Pasadena, California.
Canadian Industries, Ltd., Montreal, Quebec, Canada.
Carter's Gun Works, Charlottesville, Virginia.
Casting Engineers, 2323 North Bosworth Ave., Chicago, Illinois.
Charter Arms Corporation, Bridgeport, Connecticut.
Colorado Magazine, Incorporated, Denver, Colorado.
Colt's Inc. Firearms Division, Hartford, Connecticut.
Converse Rubber Company, Melrose Park, Illinois.
Crossman Arms Company, Inc., Fairport, New York.
Daisy Manufacturing Company, Rogers, Arkansas.
Dallas Uniform Cap & Emblem Mfg., Inc., Dallas, Texas.
Davis Publications, New York, New York.
Detroit Bullet Trap, Arlington Heights, Illinois.
Dixie Gun Works, Inc., Union City, Tennessee.
E. I. duPont de Nemours & Co., Inc., Wilmington, Delaware.
Reinhart Fajen, Inc., Warsaw, Missouri.
Field & Stream, New York, New York.
Firearms International Corporation, Washington, D.C.
Fitz, Los Angeles, California.
Game Winner, Inc., Atlanta, Georgia.
The Gun Digest Company, Chicago, Illinois.
Guns & Ammo Magazine, Hollywood, California.
Guns & Hunting, New York, New York.
Guns Magazine, Skokie, Illinois.
GUNsport Magazine, Falls Church, Virginia.
Gun Week, Sidney, Ohio.
Gun World, Covina, California.
The Handloader Magazine, Peoria, Illinois.
Harrington & Richardson, Inc., Worcester, Massachusetts.
Hearbath Corporation, Springfield, Massachusetts.
Herriett's Stocks, Twin Falls, Idaho.
The High Standard Manufacturing Corp., Hamden, Connecticut.
Hi-Precision Manufacturing Co., Orange City, Iowa.
B. E. Hodgdon, Inc., Mission, Kansas.
Frank A. Hoppe, Inc., Jenkintown, Pennsylvania.

Hornady Manufacturing Company, Grand Island, Nebraska.
Ithaca Gun Company, Incorporated, Ithaca, New York.
Iver Johnson's Arms & Cycle Works, Inc., Fitchburg, Massachusetts.
Jet-Aer Corporation, Paterson, New Jersey.
The George Lawrence Company, Portland, Oregon.
Lead Industries Association, Inc., New York, New York.
Lee Custom Engineering, Inc., Hartford, Wisconsin.
Leupold & Stevens Instruments, Portland, Oregon.
Lion Brothers Company, Inc., Owings Mills, Maryland.
Lyman Gun Sight Corporation, Middlefield, Connecticut.
Mershon Company, Los Angeles, California.
O. F. Mossberg & Sons, Inc., North Haven, Connecticut.
National Skeet Shooting Association, Dallas, Texas.
National Sporting Goods Association, Chicago, Illinois.
National Wildlife Federation, Washington, D.C.
Navy Arms Company, Incorporated, Ridgefield, New Jersey.
Noble Manufacturing Co., Inc., Haydenville, Massachusetts.
National Muzzle Loading Rifle Assoc., Friendship, Indiana.
Ohaus Scale Corporation, Union, New Jersey.
Outdoor Life, New York, New York.
Pachmayr Gun Works, Inc., Los Angeles, Calif.
Pacific Gun Sight Company, Lincoln, Nebraska.
Poly-Choke Company Inc., Hartford, Connecticut.
Popular Science Publishing Company, Inc., New York, New York.
Redfield Gun Sight Co., Denver, Colorado.
RCBS, Inc., Oroville, California.
Remington Arms Company, Inc., Bridgeport, Connecticut.
Richmond Sport Products, Inc., Richmond, Illinois.
Savage Arms, Westfield, Massachusetts.
Buddy Schoellkopf Products, Inc., Dallas, Texas.
Walter Schwimmer, Inc., Chicago, Illinois.
Scopes, Inc., Pasadena, California.
Selling Sporting Goods, Chicago, Illinois.
Sheridan Products Inc., Racine, Wisconsin.
The Shooters Bible, South Hackensack, New Jersey.
The Shooting Industry, Skokie, Illinois.
Shooting Times, Peoria, Illinois.
Sierra Bullets, Inc., Santa Fe Springs, California.
Simmons Gun Specialties, Inc., Kansas City, Missouri.
Skinner's Sportsmens Supply, Juneau, Alaska.
Smith & Wesson, Springfield, Massachusetts.
Speer, Lewiston, Idaho.
Sporting Goods Dealer, St. Louis, Missouri.
Sports Afield, New York, New York.
Sports Age Magazine, Minneapolis, Minnesota.
Stackpole Books, Harrisburg, Pennsylvania.
Stoeger Arms Corporation, South Hackensack, New Jersey.
Sturm, Ruger & Company, Inc., Southport, Connecticut.
10–X Manufacturing Company, Des Moines, Iowa.
Trap & Field Magazine, Indianapolis, Indiana.
Trius Products, Inc., Cleves, Ohio.
Utica Duxbak Corporation, Utica, New York.
Weatherby, Inc., South Gate, California.
W. R. Weaver Company, El Paso, Texas.
Winchester-Western Division of Olin, New Haven, Connecticut.

SPORTING ARMS & AMMUNITION MANUFACTURERS' INSTITUTE,
New York, N.Y., April 30, 1968.

Senator THOMAS J. DODD,
Chairman, Subcommittee To Investigate Juvenile Delinquency, Washington, D.C.

DEAR SENATOR DODD: Your letter of April 26, 1968 addressed to Mark K. Benenson, 420 Lexington Avenue, New York, was received on April 29. Mr. Benenson is counsel for the New York Sporting Arms Association located at 114 Chambers Street, New York, N.Y., 10007. This is an entirely separate organization from the Sporting Arms and Ammunition Manufacturers Institute of which I am Secretary-Treasurer. I forwarded a copy of your letter to Mr. Benenson. He will no doubt reply to you on behalf of the New York Sporting Arms Association. The following is the reply of the Sporting Arms and Ammunition Manufacturers Institute.

Since you need a response to your letter within a day or two after its receipt, and in view of the diversity of our membership, we cannot set forth a specific position on Title IV, S. 917 as you have requested. The individual views of the member-companies could be obtained by contacting them directly.

However, we have testified before committees of both the House and Senate in favor of firearms legislation which regulates rather than prohibits the interstate shipment of handguns and which prohibits the interstate shipment of any firearms in contravention of state laws. For years we have supported the ideas which are best expressed in the Hruska bills, S. 1853 and S. 1854, now identified as amended 708 to S. 917. We are hopeful that firearms legislation such as that proposed by Senator Hruska can be promptly enacted.

These views generally represent the attitudes of our membership, and undoubtedly will be expressed by Senator Hruska and other members of the Senate who support amendment 708 to S. 917. We appreciate your contacting us and requesting our views on this matter.

Sincerely,

HARRY HAMPTON,
Secretary-Treasurer.

MEMBERS OF SAAMI

E. I. DuPont DeNemours & Co., Inc., Wilmington, Del: Sporting powders.

Federal Cartridge Corp., Minneapolis, Minn.: Sporting ammunition.

Hercules Powder Co., Wilmington, Del.: Sporting powders.

The High Standard Manufacturing Corp., Hamden, Conn.: Sporting firearms.

Ithaca Gun Co., Ithaca, N.Y.: Sporting firearms.

O. F. Mossberg & Sons, Inc., North Haven, Conn.: Sporting firearms.

Remington Arms Co. Inc., Bridgeport, Conn.: Sporting firearms, ammunition, clay targets and traps.

Savage Arms, Westfield, Mass.: Sporting firearms.

Winchester-Western Division, Olin Mathieson Chemical Corp., New Haven, Conn.: Sporting firearms, ammunition, clay targets and traps.

NATIONAL RIFLE ASSOCIATION OF AMERICA,
Washington, D.C., May 3, 1968.

Hon. THOMAS J. DODD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: I have your letter of April 26, 1968, addressed to Mr. Franklin L. Orth our Executive Vice President, and with which were enclosed (1) a copy of Title IV of S. 917, (2) a draft report on this title, and (3) a section-by-section analysis of your firearms proposal as most recently amended.

As I view Title IV, it appears to be essentially S. 1 with Amendment 90 but with rifles and shotguns removed from certain provisions, particularly the ban on the shipment or receipt of firearms in interstate or foreign commerce by non-federally licensed individuals.

The position of the National Rifle Association on S. 1 with Amendment 90 is well known. The Association made its views quite clear in public hearings before the Subcommittee on Juvenile Delinquency, Senate Judiciary Committee, in July 1967.

Although the prohibition on the movement of firearms in commerce, as reflected in Title IV, has been limited to handguns, the National Rifle Association still finds Title IV unacceptable because its basic orientation is that of total prohibition rather than regulation. In my opinion, nothing adduced so far in the many hours of hearings on the firearms control question over the last few years supports such an approach. NRA opposition is reinforced by the tone and content of the findings and declaration, the sweeping assertions of which are in my view gratuitous, unsubstantiated and indicative of the general "anti-gun" sentiments of the supporters of this legislation. Further, the opposition of the National Rifle Association to Title IV is not in any degree lessened by the announced intention of the proponents of this measure to reinsert rifles and shotguns under the ban now applying to handguns only when the measure is considered on the floor of the Senate.

The National Rifle Association has publicly supported a positive program for effective federal firearms controls. The pivotal elements of this program are S. 1853 and S. 1854, by Senator Roman L. Hruska of Nebraska, to provide for a certified statement approach for the receipt of handguns in commerce, and to regulate "destructive devices" under the registration and heavy tax provisions of the National Firearms Act. These bills have now been submitted as Amendment 708, a substitute for Title IV. The Association is in full accord with and categorically supports this Amednment.

The charge has been frequently made that NRA members and sportsmen generally have been misinformed with respect to S. 1 with Amendment 90. It seems to me, this charge must be predicated on the assumption that those who oppose do not read their newspapers, listen to radio or watch television. I assure you, from the mail I receive, that the membership of NRA is not misinformed and overwhelmingly supports the position expressed here.

You may be sure the National Rifle Association greatly appreciates the opportunity to reiterate its stand on firearms legislation soon to be considered by the Senate.

Sincerely,

H. W. GLASSEN,
President.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C., May 2, 1968.

Hon. THOMAS J. DODD,
Chairman, Subcommittee To Investigate Juvenile Delinquency, Committee on the Judiciary, U.S. Senate, Washington, D.C.

DEAR SENATOR DODD: We have your letter of April 26 and the enclosures concerning your amendment which appears as Title IV of the Omnibus Crime Control and Safe Streets Act, S. 917.

In your letter soliciting our views, you state that "It would be helpful to the public in understanding this issue if you would forward to me your views on my proposed legislation.

"When this comes to debate in the Senate, I want to effectively present all positions to my colleagues for consideration before they vote on this measure.

"It is essential that the Congress understand the position taken by your organization before voting on this measure."

We are pleased to respond and do so in the expectation that this letter will be presented in full context to the Senate. This reply sets forth the views of conservationists who long have recognized the problems resulting from the misuse of certain firearms and destructive devices. Our recommendations for the revision and enforcement of existing laws are a matter of record in the printed hearings of the Subcommittee To Investigate Juvenile Delinquency.

We support strict controls over the interstate shipment of handguns as proposed in S. 1853, by Senator Hruska and others, that would strengthen the Federal Firearms Act. We prefer the provisions of that bill which require notification to local law enforcement officers and an adequate waiting period before a dealer may make delivery of a handgun. We also favor the provision in S. 1853 that would prohibit the interstate shipment of any firearm contrary to state laws.

We believe that the provisions of your Title IV which would prohibit completely, rather than regulate, interstate commerce in handguns discriminate against law-abiding persons. Such a prohibition holds maximum inconvenience for all sections of the country rather than focusing attention where it is required.

We have been advocating that grenades, bazookas, crew-served weapons and similar destructive devices should be regulated rigidly. This desirable control should be achieved by amendment of the National Firearms Act as contemplated in S. 1854, by Senator Hruska and others.

Sportsmen everywhere have asked the committee not to link sporting firearms with destructive devices. They have urged repeatedly that sporting firearms continue to be handled through the Federal Firearms Act and destructive devices through the National Firearms Act. Your Title IV treats them together and puts them in the criminal code.

We are hopeful that the corrective legislation that the sportsmen have been seeking will be enacted during this session. We believe the Senate should do this by adopting S. Amendment No. 708 that was offered on April 29, 1968, as a substitute for Title IV in S. 197. That amendment incorporates the widely supported features of S. 1853 and S. 1854.

Sincerely,

C. R. GUTERMUTH,
Vice President.

NATIONAL WILDLIFE FEDERATION,
Washington, D.C., May 1, 1968.

Hon. THOMAS J. DODD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DODD: This will acknowledge receipt of your letter of April 26 sent via certified mail to request our opinion and position on Title IV of S. 917, the Omnibus Crime Control and Safe Streets Act, as approved by the Senate Committee on the Judiciary.

Time does not permit a thorough study of this proposed legislation by the National Wildlife Federation's officers, directors, and affiliated organizations prior to Senate debate which you have indicated will begin May 2–4.

The position of the National Wildlife Federation on firearms control has been made clear, however, in previous public hearings conducted by the Committee. In brief, we favor, (1) strict regulation and control of concealable weapons (pistols and revolvers); (2) we support existing regulations prohibiting the sale or interstate shipment of firearms to persons under indictment or convicted of a crime punishable by imprisonment for a term exceeding one year or is a fugitive from justice or is prohibited by state or local law from owning or possessing firearms; and (3) we firmly believe the importation, sale, shipment, use or ownership of destructive devices (such as bombs, bazookas, grenades, and other military type weapons or devices) by private citizens should be completely prohibited; not regulated as your amendments provide.

As we understand your proposal, it would repeal the Federal Firearms Act of 1938. We firmly believe this Act should *not* be repealed. If properly enforced, this Act could have been used to solve most of the current problems involved in the interstate sale and shipment of firearms to persons not legally entitled to possess them. Rather than repealing what we consider to be a very sound, workable law, we believe further amendment is necessary to assist local and state enforcement agencies in further regulating and controlling mail-order sales of concealable weapons to residents, or over-the-counter sales to non-residents, along the lines proposed in Senate Amendment 708.

Thank you for this opportunity to offer these comments and opinions. As you well know, the National Wildlife Federation has always supported adequate control, coupled with strict enforcement, over the sale, use, and possession of firearms by our citizens. We believe the basic answer to the crime problem in the United States is to resolve our current social problems and to educate all law abiding citizens on the proper, safe use of firearms and to severely punish those persons who deliberately misuse firearms or other weapons in the commission of criminal acts.

Sincerely,

THOMAS L. KIMBALL,
Executive Director.

Mr. DODD. Mr. President, since we start the debate on this matter tomorrow, I will say—as I have said before, but I think it needs to be said over and over again—that I have read in at least one newspaper the statement that I agreed to withdraw my long-gun provision from title IV. I did no such thing. It was knocked out in the Committee on the Judiciary over my protest. And that was in the afternoon, before the slaying of Dr. Martin Luther King that evening.

I believe that the record, if it had been preserved—and I assume that it has—will show that at that meeting I said:

How many more assassinations are we going to have by this kind of weapon before we come to our senses?

Far from agreeing to withdraw the measure, I was fighting to get it included in title IV. That is the historical fact of the matter. It was not until I got home that afternoon that I heard about the assassination of Dr. King with a long gun.

It has also been asserted time and time again that I introduced the bill first in 1963 I did so in a moment of hysteria, which would have been understandable enough if it were true, after the assassination of President Kennedy. However, here again the RECORD ought to be set right. That is not true.

I introduced the bill in August 1963, which preceded by approximately 3 months that tragedy in Dallas.

I wanted to make those points clear in the RECORD.

I took this matter up in 1961 when we started our studies. It is now 1968. And I believe that we are going to get somewhere. We will get, I hope, a good bill.

I look forward to the final vote on this measure. Despite all the handicaps, hardships, and difficulties that have plagued me and other members of our committee during these long years, we have finally gotten the measure on the Senate floor.

Mr. President, I yield the floor.

Mr. KENNEDY of Massachusetts. Mr. President, during the week of April 20, the nearly 3 million people who see the New Yorker magazine read the following statement:

Nothing renders Congress less capable of action than the need for it. The more urgent the need, the more controversy it is likely to create, and the more controversy it creates, the greater is the danger for any member who takes a stand.

Thus began an article stretching across almost 100 pages of that distinguished magazine, an article detailing an American tragedy, the tragedy of a nation unable to keep the instruments of death and destruction out of the hands of its children, its criminals, its mental incompetents, the tragedy of public representatives, frightened by the rantings and ravings of a small group of fanatics, fiddling Nero-like with rhetoric while the sound of gunshots rings incessantly through the land and the toll of their victims mounts daily.

The latest chapter in this national tragedy was written just yesterday in New York State, when the gun lobby succeeded in getting almost all the members of the Governor's own party to kill his gun bill.

In the coming days we here in this Chamber will decide whether we want to write the end of this tragic history, or merely to add another inglorious episode. We will decide whether we want to see next year's statistics for gun deaths, gun injuries, and gun crimes climb or fall. We will decide whether the cries of the American people for protection from the unfettered traffic in firearms will be answered or ignored. We will decide whether we want to be, and to be seen in the world, as a people of bloodshed and violence, or a people of reason and peace.

Let us be direct. Let us be candid with ourselves and our people. Are we mice or men? Is our position on gun legislation to be determined by the mindless screaming of a few of our constituents or by the legitimate needs of the quiet and vast majority? By conscience or convenience? By what we know to be right and necessary or by what is easiest?

There are two things that each of us looks at every morning—the newspapers and the mirror. Some morning soon each of us will find in his paper the story of a criminal who murdered a shopkeeper with a mail-order shotgun, or a disturbed mother who in a fit of anger drove to the next State and bought a pistol to slay her family, or a juvenile who wounded a bank teller with a revolver he had just purchased; and each of us will then

have to look himself in the face and answer one simple question: Would my vote have saved that shopkeeper's life, preserved that woman's family, protected that teller? For though we are not talking about a measure which will end all killing or all crime, we are talking about a measure which will save some lives and prevent some crimes, and will do so at almost no cost, with almost no sacrifice of other national values. How can we, then, refuse to respond to such an obvious need? How can we explain to ourselves and to our constituents, to the victims of gun crimes and the survivors of gun victims why we have vacillated so long?

How can we be parties to the perpetuation of a national scandal of the highest order, a scandal which deprives the many, of a measure of protection to satisfy the whims and emotions of a very few? How long are we willing to be accessories before the fact in every shooting, and accomplices in every holdup? What will it take to move us, if a pun may be excused, from dead center on the gun issue?

The fact is that for 5 years now we have been drafting, and discussing, and deciding and debating, and delaying—all without any results. We have held hearing after hearing and read report after report with the same result.

Effective gun controls must be at the top of any responsible list of anticrime measures. Law enforcement officials from the Attorney General and Director Hoover to local police chiefs want us to act. A clear and convincing majority of the public wants us to act. The American Bar Association, the National Council on Crime and Delinquency, and dozens of other public interest groups want us to act. And logic and morality both demand that we act.

And let us be clear on what we are really being asked to do. We are not going to "take guns away" from anyone. We are not going to interfere with any legitimate use of guns at all. Under S. 1, amendment 90, the gun bill which I am hopeful we will enact, all we are going to do is say to criminals that they cannot buy guns, to juveniles that they cannot buy guns, to other gun purchasers that they cannot evade their own State and local laws through out-of-State purchases.

In an abundance of generosity to the traveling hunter, amendment 90 will let him purchase a rifle or shotgun in another State if he meets the laws of both States. As a further symbol that it is not our intent to be vindictive, or to cast aspersions on the hobbies or habits of legitimate gun users, I have today introduced a perfecting amendment to title IV which will include long guns in title IV's coverage. If this amendment is adopted, the result will be a bill parallel to amendment 90, introduced by Senator DODD, who has worked so long and hard in leading this effort—with the exception that the preamble is omitted. It is my personal belief that the substance of the preamble, is supported by irrefutable evidence, and that it is completely unobjectionable, and I ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the preamble was ordered to be printed in the RECORD, as follows:

PREAMBLE TO THE "STATE FIREARMS CONTROL ASSISTANCE ACT OF 1967"

(a) The Congress hereby finds and declares—

(1) that there is a widespread traffic in firearms moving in or otherwise affecting interstate or foreign commerce, and that the existing Federal controls over such traffic do not adequately enable the States to control the firearms traffic within their own borders through the exercise of their police power;

(2) that the ease with which any person can acquire firearms (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supplant the functions of duly constituted public authorities, and others whose possession of firearms is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in the United States;

(3) that only through adequate Federal control over interstate and foreign commerce in firearms, and over all persons engaging in the businesses of importing, manufacturing, or dealing in firearms, can this grave problem be properly dealt with, and effective State and local regulation of the firearms traffic be made possible;

(4) that the acquisition on a mail-order basis of firearms by nonlicensed individuals, from a place other than their State of residence, has materially tended to thwart the effectiveness of State laws and regulations, and local ordinances;

(5) that the sale or other disposition of concealable weapons by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the State in which the licensees' places of business are located, has tended to make ineffective the laws, regulations, and ordinances in the several States and local jurisdictions regarding such firearms;

(6) that there is a causal relationship between the easy availability of firearms and juvenile and youthful criminal behavior, and that firearms have been widely sold by federally licensed importers and dealers to emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior;

(7) that the United States has become the dumping ground of the castoff surplus military weapons of other nations, and that such weapons, and the large volume of relatively inexpensive pistols and revolvers (largely worthless for sporting purposes), imported into the United States in recent years, has contributed greatly to lawlessness and to the Nation's law enforcement problems;

(8) that the lack of adequate Federal control over interstate and foreign commerce in highly destructive weapons (such as bazookas, mortars, antitank guns, and so forth, and destructive devices such as explosive or incendiary grenades, bombs, missiles, and so forth) has allowed such weapons and devices to fall into the hands of lawless persons, including armed groups who would supplant lawful authority, thus creating a problem of national concern;

(9) that the existing licensing system under the Federal Firearms Act does not provide adequate license fees or proper standards for the granting or denial of licenses, and that this has led to licenses being issued to persons not reasonably entitled thereto, thus distorting the purposes of the licensing system.

(b) The Congress further hereby declares that the purpose of this Act is to cope with the conditions referred to in the foregoing subsection, and that it is not the purpose of this Act to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity, and that this Act is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this Act.

Mr. KENNEDY of Massachusetts. However, some gun groups and individuals have taken exception to it, and whether their reasons are justified or not, in hopes of fostering a spirit of reconciliation and cooperation, I for one am willing to dispense with the preamble. It is a fact that one need not subscribe to each thought in the preamble in order to conclude that amendment 90 should be enacted. And to the extent that the bill depends on facts and findings, these are adequately presented in the several sets of hearings and in the various reports. Thus I hope those who have joined in supporting amendment 90 will also join in this first step toward a new attitude of mutual respect and restraint in what has unfortunately and unnecessarily been an emotional and unrestrained conflict.

Now each of us must keep counsel with his own mind and his own conscience, as we begin the debate in earnest tomorrow.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. BARTLETT in the chair). The Senator will state it.

Mr. KENNEDY of Massachusetts. Mr. President, am I correct in understanding that if, after the expiration of the time for debate on the Hruska substitute, perfecting amendments are called up, they would be debated and voted upon before the vote on the Hruska substitute?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY of Massachusetts. Mr. President, do I also correctly understand that as a result of the earlier unanimous-consent agreement, the first perfecting amendment would be the amendment perfecting title IV of the measure I introduced?

The PRESIDING OFFICER. Again, the Senator is correct, if he is recognized and calls it up.

Mr. KENNEDY of Massachusetts. I thank the Chair.

RECESS UNTIL 10 A.M. TOMORROW

Mr. KENNEDY of Massachusetts. Mr. President, in accordance with the order previously entered, I move that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to; and (at 5 o'clock p.m.) the Senate recessed until tomorrow, Wednesday, May 15, 1968, at 10 a.m.